

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.17428 of 2017

Arising Out of PS.Case No. -120 Year- 2016 Thana -KOTWALI District- MUNGER

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Sangeeta Devi, Wife of Vikash Modi, Resident of Mohalla-Shyampur, Police Station-Kotwali, District-Munger.

.... Petitioner

Versus

1. The State of Bihar
2. Rajeev Ranjan Srivastava, Son of name not known, the Officer-in-Charge, Basudeopur O.P., Police Station-Kotwali, District-Munger,

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Sinha, Advocate
Mr. Anjani Kumar Sinha, Advocate
For the State : Mr. Pranav Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 01-08-2017

This application under Section 482 of the Code of Criminal Procedure (for short 'Cr. P.C.') has been filed for quashing the order dated 01.03.2017 passed by the learned Sessions Judge, Munger in Kotwali P.S. Case No.120 of 2016 by which the petition filed on 12.01.2017 under Section 227 of the Cr. P.C. seeking discharge from the offences punishable under Sections 20 and 22 of the Narcotic Drugs and Psychotropic Substances Act and Section 47 of the Excise Act has been rejected.

2. On the basis of the written report submitted by the Incharge Basudeopur O.P. submitted to the Officer-in-charge of Kotwali Police Station, Munger, the first information report was



registered and investigation was taken up.

3. According to the prosecution case, on 26.04.2016 on getting secret information the police officials conducted a raid at the house of Vikash Modi and found a lady inside the house and on query, she disclosed her name as Sangeeta Devi (petitioner) wife of Vikash Modi. In another room of the house, the informant recovered 6 kg ganja and two bottles of 180 ml foreign liquor. On further query, the petitioner stated that she and her husband used to sell the aforesaid ganja and wine and, accordingly, a seizure list was prepared.

4. On completion of investigation, the police found sufficient material against the petitioner and her husband. Thus, they were sent for trial.

5. On perusal of the statements of witnesses recorded under sub-section (3) of Section 161 of the Cr. P.C. and the substance of accusation recorded in the police report submitted under Section 173(2) of the Cr.P.C., the learned court below took cognizance of the offences punishable under Sections 20 and 22 of the Narcotic Drugs and Psychotropic Substances Act and Section 47 of the Excise Act against the accused persons named in the FIR including the petitioner.

6. At the stage of framing of charge, an application



under Section 227 of the Cr.P.C. was filed on behalf of the petitioner seeking discharge from the case. The said application has been rejected by the learned Sessions Judge, Munger, vide order dated 01.03.2017. The aforesaid order dated 01.03.2017 is under challenge in the present application.

7. It has been contended by the learned counsel for the petitioner that the complicity of the petitioner could not be established during investigation. It is further contended that since the recovery of the contraband ganja and liquor was from another room of the house, the petitioner had no knowledge about the same. She has been implicated only because she happens to be wife of one Vikash Modi, a co-accused of this case.

8. On the other hand, learned counsel for the State has contended that the petitioner was arrested from the place of occurrence itself and, on query made by the police, she admitted that she is involved in sale and purchase of ganja and liquor. He has contended that even during investigation, witnesses have supported the allegations made in the FIR. Thus, no fault can be found with the order passed by the learned Sessions Judge whereby the application filed under Section 227 of the Cr. P.C. has been rejected.

9. I have heard learned counsel for the parties and perused the record.



10. I find substance in the submission made by the learned counsel for the State. The defence of the petitioner is to be considered by the trial court at appropriate stage. The principle of discharge from a criminal case is well settled in law. If upon consideration of record of the case and documents submitted therewith and after hearing the submission of the accused and the prosecution in this behalf, the court considers that there is no sufficient material for proceeding against the accused, it may discharge the accused and record reasons for so doing. However, in case there are materials to suggest the involvement of an accused in commission of an offence, merely on the basis of defence advanced on behalf of the accused, he cannot be discharged.

11. In that view of the matter, I see no illegality in the order passed by the court below.

12. Accordingly, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
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