

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.24698 of 2017

Arising Out of PS.Case No. -138 Year- 2015 Thana -MAHESHKHUNT District- KHAGARIA

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Kampani Mandal @ Kampany Mandal, S/o Late Jagdish Mandal, Resident
of Village- Rohari, P.S.- Maheshkhunt, District- Khagaria.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Radhe Shyam

For the Opposite Party/s : Mr. Sri Lakshmi Kant Sharma

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 02.08.2017

Heard learned counsels for the petitioner and
the State.

The petitioner has renewed the prayer for bail
in a case registered for the offences punishable under Sections 20
and 22 of the NDPS Act.

The prosecution case is that from the house
of the petitioner, 20 kgs. of Ganja wrapped in four packets were
recovered.

It is submitted by learned counsel for the
petitioner that, though, the recovery was made from the joint



family house of the petitioner but the petitioner has no criminal antecedent and considering the same the earlier bail application of the petitioner was rejected vide order dated 05.05.2016, passed in Cr. Misc. No. 20081 of 2016, with a direction to learned trial court to expedite the trial. At the fag end of the trial when all the prosecution witnesses were examined the prosecution filed a petition on 30.03.2017 under Section 216 of the Cr.P.C. for alteration of charge from section 20(ii)(A) and 22 of the NDPS Act to section 20(b)(ii)(c) and 22 of the NDPS Act and hence, the conclusion of the trial got delayed, due to the such application being filed by the prosecution at the fag end of the trial, were their own lapse.

It appears that as per the prosecution case, the recovery involved commercial quantity, whereas, the charge was framed under Section 20(ii)(A) and 22 of the NDPS Act, which not only reflects the casual approach of the prosecution but also of the learned trial court, since offence under Section 20(ii)(A) of the NDPS Act, prescribes punishment for small quantity.

However, considering the commercial quantity of recovery, this Court is not inclined to revise the earlier order, but it is expected from learned Additional Sessions Judge, 3rd, Khagaria to conclude the trial of Special Case No. 13 of 2015,



arising out of Maheshkhunt P.S. Case No. 138 of 2015 within a period of five months.

Accordingly, the prayer for bail of the petitioner is rejected.

(Dinesh Kumar Singh, J)

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