

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10979 of 2017

Arising Out of PS.Case No. -3 Year- 2016 Thana -TANDWA District- AURANGABAD

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Umakant Dubey, Son of Late Jagdish Dubey, Resident of Village- Jhumar Bigha, P.S.- Barun, District- Aurangabad.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukul Jee, Adv.

For the Opposite Party/s : Mr. J. N. Thakur, Adv.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 06-09-2017 Heard learned Counsels appearing on behalf of the petitioner and learned APP for the State.

The petitioner has renewed his prayer for bail in connection with a case registered for the offences punishable under Section 414 of the I.P.C., Sections 25(1-B)a, 26, 35 of the Arms Act and Sections 20(b)(i),23,25,27A,29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, in connection with Tandwa P.S. Case No.3/2016, pending before the learned ADJ-1st, Aurangabad.

The prosecution case is that the informant being the SHO of Tandwa police station received the intelligence input that on 13.01.2016 at about 4.15 AM, the petitioner Umakant Dubey, is staying at his in-laws house when the raid was laid but the wife



of the petitioner, Manju Devi, obstructed the police force from entering into the house. In the meantime, the petitioner tried to escape with a bag. On search 2 Kg Ganja, 500 grams charas like material, a country made pistol, a motorcycle and a mobile set were recovered from the petitioner.

It is submitted by learned Counsel appearing on behalf of the petitioner that the police have maliciously roped the petitioner in the present case, though the petitioner is accused in six other cases. Most of them are registered under Sections 392, 394 and 395 of the Indian Penal code, but he has been acquitted in all the four cases. However, it was wrongly recorded in the order dated 03.08.2016, passed in Criminal Miscellaneous No.31085 of 2016 that the petitioner is accused in 10 cases, but only four cases are pending against him at present. Moreover, the weight of seized 'Charas' is also recorded '50 grams' instead of '500 grams'. It is further submitted that though the case is also registered under section 27A of the Narcotic Drugs and Psychotropic Substances Act, but embargo of Section 37 will not apply since the FIR does not level any accusation of financing, illicit traffic and harbouring. Hence, no case under section 27A of the Narcotic Drugs and Psychotropic Substances Act is made out. The trial is going on and most of the witnesses have not supported the prosecution case.



The petitioner has never been accused in any case registered under the Narcotic Drugs and Psychotropic Substances Act and the recovery of both the 'ganja' and 'charas' is between small and commercial quantity.

Let Criminal Miscellaneous No.31085 of 2016 be listed under the heading 'To Be Mentioned'.

Considering the criminal antecedent of the petitioner and the advance stage of the trial, this Court is not inclined to grant bail to the petitioner for the present. However, if the trial is not concluded within a period of four months, the petitioner will be at liberty to renew his prayer for bail.

(Dinesh Kumar Singh, J)

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