

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.48433 of 2016

Arising Out of PS.Case No. -172 Year- 2015 Thana -RAXAUL District-
EASTCHAMPARAN(MOTIHARI)

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Vijay Kumar Das @ Vijay Kumar

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranvijay Kumar Singh, Adv.
Mr. Agni Pal Singh, Adv.
For the State : Mr. Manoj Kumar, APP
For the UoI : Mr. Ram Anurag Singh, CGC

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER**

5 21-06-2017 Heard learned counsel for the petitioner, learned
counsel for the Union of India and learned APP for the State.

The petitioner has renewed the prayer for bail in a case registered for the offences punishable under sections 19, 20, 22, 23 and 24 of the Narcotics Drugs and Psychotropic substances Act (hereinafter referred as to the 'Act'). The petitioner is languishing in custody since 13/07/2015. The prayer for bail of the petitioner was earlier rejected vide order dated 05/09/2016, passed in Criminal Miscellaneous No.38740 of 2016, on the ground of recovery of commercial quantity of contraband.

The prosecution case is that on secret information the house of the petitioner was raided when 270 gm. brown sugar, 14 k.g. of Sodium Carbonate, 01 K.g. black colour



powder, 600 gm. chemical powder, 450 gm. Zinc powder, 16 gm. clear powder, 06 pieces of industrial colour, 02 weighting machines were found leading to registration of Raxaul P.S. Case No.172 of 2015 on 13/07/2015.

A supplementary affidavit has been filed on behalf of the petitioner to bring on record the report of the Forensic Science Laboratory, Muzaffarpur dated 29/03/2016 suggesting that one sample transmitted to the FSL has been found as a basic drug in the white colour powdery substance and the drug is found to be addictive and intoxicating in nature.

It is submitted by learned counsel appearing on behalf of the petitioner that in view of the FSL report no case under the Act is made out and if any case is made out is under the Drugs and Cosmetics Act, wherein, the punishment is three years of imprisonment and the petitioner is languishing in custody since 13/07/2015. A statement has been made in paragraph no. 3 of the petition that the petitioner has no criminal antecedent as per the information given by the pairvikar who is the father of the petitioner. Paragraph no. 3 reads as under :-

“That the petitioner has no any criminal antecedent as per the pairvikar who is the father of the petitioner.”

Mr. Ram Anurag Singh, learned counsel appearing



on behalf of Union of India submits that the FSL report brought on record by the petitioner is genuine. Statement to that effect has been made in paragraph no.4 of the counter affidavit, which reads as under :-

“That the FSL report dated 10/11/2015 filed by the petitioner, is found genuine in my knowledge and issued by the office of Director, Regional Forensic Science Laboratory Muzaffarpur. Annexure-5 of the supplementary affidavit filed by the petitioner is already on record of the case. “

The counter affidavit stipulates only the genuineness of the FSL report and nothing else.

Considering the rival submissions of the parties and perusal of the FSL report which shows only 13gm white coloured powdery substance was transmitted to the FSL weight is not found to be narcotics or psychotropic substance and coupled with a statement made in paragraph no.3 of the petition that the petitioner has no criminal antecedent, let the above named petitioner be released on bail, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned 3rd Additional Sessions Judge-cum-Special Judge, East Champaran, Motihari, in connection with Raxaul P.S. Case No172/2015.

The bail of the petitioner will be accepted on filing of



affidavit by the petitioner to the effect that he will appear on each and every date of the trial.

The learned trial court would be at liberty to cancel the bail bond of the petitioner if he defaults for three consecutive occasions or gets involved in similar nature of offence.

(Dinesh Kumar Singh, J)

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