

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8134 of 2017

Arising Out of PS.Case No. -100 Year- 2016 Thana -MURLIGANJ District- MADHEPURA

=====

Pawan Yadav Son of late Bhalsu Yadav Resident of Village- Pakilpur, P.S.
Murliganj, District- Madhepura.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Garg, Advocate

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

=====

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

ORAL ORDER

2 10-05-2017 This matter has been taken up out of turn on the

request of learned counsel for the petitioner.

Heard learned counsels for the petitioner and the

State.

The petitioner has renewed his prayer for bail in a case
registered for the offences punishable under Sections 25(1-B)a,
and 26 of the Arms Act, section 47(a) of the Excise Act and
sections 20,22 and 24 of the NDPS Act.

The prosecution case is that on the basis of secret
information the house of co accused Chandan Yadav was raided,
when 27 bottles, each containing 400 ml country-made liquor,
were seized. On the disclosure of Chandan Yadav to the effect that
the petitioner used to sell the country-made liquor from his



wooden shop, the petitioner was apprehended and from his possession one country made pistol and one live cartridge were recovered. From the wooden shop of the petitioner 46 bottles (each containing 400 ml) country made liquor, five sachets of ganja weighing 10 grams apart from that 30 grams ganja, kept in open sachets were recovered.

It is submitted by learned counsel for the petitioner that recovery of ganja is of small quantity. The petitioner is languishing in custody since 30.3.2016. Statement has been made in paragraph 3 of the petition that the petitioner has no criminal antecedent. It is further submitted that co accused Chandan Yadav has been granted bail.

Though the case was registered also under section 24 of the NDPS Act (hereinafter referred to as the 'Act') but the embargo under section 37 of the Act will not apply which stipulates that no person accused of an offence punishable for offences under section 19 or section 24 or section 27-A and also for offences involving commercial quantity shall be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity to oppose the application for such release and where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to



commit any offence while on bail.

Section 24 of the Act prescribes punishment for external dealings in narcotic drugs and psychotropic substances in contravention of section 12, which stipulates that whoever engages in or controls any trade whereby a narcotic drug or a psychotropic substance is obtained outside India and supplied to any person outside India without the previous authorization of the Central Government or otherwise than in accordance with the conditions, if any, of such authorization granted under section 12, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than One lakh rupees but may extend to Two lakh rupees provided the reasons to be recorded by the court.

The accusation in the FIR does not suggest that there is any accusation of external dealing in narcotics, hence no offence under section 24 of the Act is made out from the accusations and thereby, the embargo under section 37 of the Act does not apply in the present case.

Mr. J.N. Thakur, learned APP for the State admits that the accusation does not constitute offence under section 24 of the Act.

Keeping in view the small quantity of recovery of ganja,



statement made in paragraph 3 of the petition that the petitioner has no criminal antecedent coupled with the fact that co accused Chandan Yadav has been granted bail, 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 learned Sessions Judge-cum-Special Judge, Madhepura in connection with Murliganj P.S. Case No. 100 of 2016.

The learned court below will positively cancel bail bonds of the petitioner in case he gets substantially involved in similar offence or defaults without any reasonable cause on two consecutive occasions.

(Dinesh Kumar Singh, J)

Anil/-

U		T	
---	--	---	--

