

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29449 of 2018

Arising Out of PS. Case No.-9 Year-2018 Thana- ISMILEPUR District- Bhagalpur

Vikash Kumar, Son of Hardeo Mandal, Resident of Village- Navtoliya, P.S. Pasraha, District- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dharendra Kumar Sinha, Advocate
For the Opposite Party/s : Mr. Narendra Kumar Singh, APP

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 12-07-2018 Heard learned counsel for the petitioner and the learned A.P.P. for the State.

Petitioner is languishing in judicial custody since 17.03.2018 in connection with Ismailpur P.S. Case No. 9 of 2018, registered for the offence punishable under Sections 20, 22, 25 of the N.D.P.S Act & Sections 420 and 120B of the Indian Penal Code.

The prosecution case, as lodged by the informant, is that on secret information that in the house of co-accused Mantu Mandal, ganja is being loaded on a white car, the police conducted a raid and found two persons on a motorcycle and a white car standing near the house of co-accused Mantu Mandal. The petitioner was arrested from the car, but out of two co-accused in a motorcycle one managed to escape. On search,



from the car, 20 kg 400 gms of ganja wrapped in plastic was recovered and from the possession of other co-accused 400 gms of ganja was found hanging on the motorcycle. Thereafter, raid was conducted in the house of Mantu Mandal and 121 Kgs. 500 gms ganja was recovered from his house. Accordingly, three seizure- lists were prepared.

It has been submitted by the learned counsel for the petitioner that he is innocent, bears no criminal history, is a student whose date of birth is 1999 and is presently pursuing his graduation studies. He submits that nothing has been recovered from his conscious possession, only mobiles were recovered from his possession and the said co-accused Mantu Mandal is his uncle whom he had come to meet and he has been arrested. He further submits that the seizure-list has been prepared before lodging of the FIR, which is violation of Section 57 of the Cr.P.C. He submits that the mandatory provisions of Section 50 of the N.D.P.S. Act has also not been complied with and all the witnesses are police witnesses and none of the independent witnesses has been examined. Although the occurrence took place in the house of the co-accused, Mantu Mandal, but the seizure was made outside the house. He further submits that the entire career of the petitioner will be jeopardized for no fault of



his. He further submits that the forensic examination of the seized article has not yet been done to ascertain whether it was ganja or not and that he had no concern with the illegal trade of ganja. He further submits that the charge-sheet has already been submitted but without chemical examination of seized items and there is no allegation of tampering with the prosecution witnesses.

However, learned A.P.P. for the State opposes the prayer for bail stating therein that the huge quantity of ganja was recovered from the car and from the house of the co-accused.

Considering the facts and circumstances and the materials on record as well as considering that the petitioner is a student, the petitioner, named above, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand only) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge, Bhagalpur in connection with Ismailpur P.S. Case No. 9 of 2018, subject to the conditions that:

(1) One of the bailors would be close relative of the petitioner having sufficient immovable properties, who will file an affidavit stating his relationship with the petitioner.

(2) The petitioner will cooperate with the



investigation and will appear before police/ Court as and when required and failure to appear will entail cancellation of his bail bonds.

(3) It is also made clear that if, in future, petitioner indulges in an offence of similar nature, the prosecution will be at liberty to move the learned Court below for cancellation of his bail bonds.

(Nilu Agrawal, J.)

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