

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.61223 of 2017

Arising Out of PS.Case No. -26 Year- 2017 Thana -INARWA District-
WESTCHAMPARAN(BETTIAH)

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1. Madan Prasad, Son of Satnarayan Prasad, Resident of Village-
Valuwahiya, P.S.- Mainatarh, District- West Champaran, Betiyah.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Lakshmi Kant Sharma, Advocate

For the Opposite Party/s : Mr. Ram Anurag Singh, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 08-02-2018 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

The petitioner is in custody in connection with
Inarwa P.S. Case No.26 of 2017, corresponding to Trial No.42 of
2017, a case under Section 414 of the Indian Penal Code and
Sections 22/23/24/27A/29 of the N.D.P.S. Act.

Submission of the learned counsel for the
petitioner is that though there is allegation of recovery of 100 Kgs
of Ganja but the production-cum-seizure list, prepared in this case,
would reveal that the Ganja and other narcotics were produced by
the Assistant Commandant of S.S.B. at the police station. Section
52 of the N.D.P.S. Act does not permit such procedure of seizure.
The seizure should have been made at the spot and, if required, in



presence of the Magistrate. Therefore, whole prosecution case is vitiated for the aforesaid reason in view of the well settled principle of law by different judicial pronouncements.

Considering the aforesaid infirmity, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned Court-below where the case is pending in connection with the aforesaid case, with condition that the petitioner shall fully cooperate with the investigation/trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the petitioner.

(Birendra Kumar, J)

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