

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54717 of 2018

Arising Out of PS.Case No. -26 Year- 2014 Thana -ECONOMIC OFFENCES, BIHAR District-
PATNA

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Mannu Kumar Dubey, Son of Madan Dubey, Resident of Village-
Bankatwa, P.S.- Paharpur, District- East Champaran.

.... Petitioner

Versus

1. The State of Bihar.
2. The Economic Offence Unit, Bihar, Patna.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Adv.
For the State : Mr. Md. Sufiyan, A.P.P.
For E.O.U. Mr. Akhileshwar Pd. Singh, Sr. Adv.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

3 12-09-2018 Supplementary affidavit is filed on behalf of the
petitioner. Let it be kept on record.

Heard learned counsel appearing for the petitioner as
well as learned counsel appearing for the Economic Offence Unit.

The petitioner seeks bail in a case registered for the
offences punishable under Sections 8(c)/20 (B) (ii) (c)/25, 29 of
the N.D.P.S. Act.

The petitioner was caught while he was driving a truck
in which 230 Kg. Ganja was found.

Earlier, the prayer for bail of the petitioner was
rejected four times by this court taking note of the above stated



factum of recovery of Ganja.

Learned counsel appearing for the petitioner submits that co-accused HasindarYadav, who happens to be owner of the truck in question, as well as co-accused Ram Ghyan Prasad @ Mukhiya Ji @ Ram Dhyan Prasad, who is said to be owner of the seized Ganja, have already been granted privilege of bail by different Benches of this court. Learned counsel of the petitioner referred a decision reported in 1993 Cri. L. J. 938 and submitted that Division Bench of Allahabad High Court has held that “if co-accused is allowed bail by a Bench of this court, it does not open for another Bench to reject the bail of the other accused because the High Court is one and each Judge is not a separate High Court.”

On the other hand, learned counsel appearing for the Economics Offence Unit opposed the bail prayer submitting that this court has already applied its judicial mind while rejecting the bail prayer of the petitioner and moreover, delay in trial is not a ground to grant bail in cases registered for the offences of N.D.P.S. Act.

According to the prosecution case, the petitioner was driver of the truck and he was caught while driving the truck in which the seized Ganja was being carried. Furthermore, it is



admitted case of the prosecution that neither the owner of the truck nor so-called owner of seized Ganja was arrested by the raiding party at the time of seizure of Ganja.

Section 37 of N.D.P.S. Act, 1985 puts certain riders in granting bail in the cases of N.D.P.S. Act because the offences of N.D.P.S. Act are quite different to offences of General Act. Moreover, in the present case, the co-accused Hasindar Yadav and Ram Ghyan Prasad @ Mukhiya Ji @ Ram Dhyan Prasad have been allowed bail on the ground that their trial was going in very slow pace but in my view, the case of this petitioner is quite different to the case of above stated co-accused persons because petitioner was caught with seized Ganja and failed to give any explanation in respect of seized Ganja before the raiding party at the time of seizure.

Therefore, taking note of the aforesaid facts and circumstances as well as keeping in mind the provision of Section 37 of NDPS Act, I am not inclined to release the petitioner on bail and hence, his prayer for bail in connection with Special Case No. 39 of 2014 arising out of Economic Offence P.S. Case No. 26 of 2014 pending in the court of Additional Sessions Judge-VI, Patna is again rejected.

However, learned trial court is directed to expedite the



trial of the petitioner and try to conclude the same as early as possible, even by taking the trial of the petitioner on day to day basis.

Copy of this order be sent to Superintendent of Police, Economics Offence Unit, Bihar, Patna with direction to him to ensure the presence of prosecution witnesses of Special Case No. 39 of 2014 arising out of Economics Offence P.S. Case No. 26 of 2014 before the learned trial court within a month, failing which the matter shall be viewed seriously.

However, if all the prosecution witnesses are examined within four months from the date of receipt of this order, the learned trial court shall try to dispose of case of the petitioner within two months from the date of completion of prosecution evidence. Any failure on the part of learned trial court shall be viewed seriously. However, if the trial of the petitioner is not concluded within the above stated period, the petitioner may renew his prayer for bail.

(Hemant Kumar Srivastava, J)

SHAHZAD/- Rajeev

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