

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50741 of 2017

Arising Out of PS.Case No. -196 Year- 2015 Thana -RAXAUL District-
EASTCHAMPARAN(MOTIHARI)

=====

1. Sk. Mumtaz S/o Sk. Yunus, R/o Village- Pokhariya, P.S.- Gaur, District-
Rautahat, Nepal.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dinesh Jha

For the Opposite Party/s : Mr. Sri Ahtash Ali Khan

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

ORAL ORDER

7 09-05-2018

Heard.

The petitioner has renewed the prayer for bail in a case registered for the offence punishable under Sections-19, 20, 22, 23, 24 of the NDPS Act.

Prosecution case is that the informant Ruby Devi found one person covering his face in suspicious condition near her house, who attempted to keep one bag in the house of the informant. The said person was apprehended with a bag, when he accepted that he was entrusted with the bag of 'charas' by Jai Prakash Yadav for keeping the same in the house of the informant. The apprehended person disclosed his name as Sk. Mumtaz, the petitioner.

It is submitted by learned counsel for the petitioner that



the occurrence took place on 14-08-2015 and the information was given to the concerned police station on 15-08-2015 at 3.30 a.m. The distance between the police station and place of seizure is one and half kms. The FIR reached to the court of learned CJM on 16-08-2015.

It appears that the seizure list was prepared on 14-08-2015 at 4.15 a.m., which suggests that the recovery has been made from the house of Bagar Yadav. The seizure list does not bear the signature of the petitioner. Hence, it cannot be said that the recovery has been made from the possession of the petitioner. Moreover, it is the informant herself who handed over the accused to the police along with a bag containing 5 kg of Charas. The statement has been made in paragraph-3 of the petition that the petitioner has no criminal antecedent.

It appears from the report of learned Additional Sessions Judge-IV, Motihari, East Champaran that out of 7 charge sheeted witnesses, three have been examined but the I.O. and two other witnesses including the informant could not be examined. However, the letter No. 686/PC dated 26-04-2018 sent from the office of S.P. Motihari, East Champaran suggests that two more witnesses have been examined on 21-02-2018 & 24-02-2018.

Learned APP after going through the case diary submits that there is specific accusation that the petitioner brought



the bag containing Charas however, it does not suggest that the recovery was made from possession of the petitioner.

Considering the fact that seizure list suggests the recovery from the house of Bagar Yadav, and the statement made in para-3 of the petition that the petitioner has got no criminal antecedent and also the fact that the petitioner is languishing in custody since 15-08-2015, let the above named petitioner be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each in connection with Raxaul P.S. Case No. 196 of 2015 to the satisfaction of learned Special Judge, NDPS Act, Motihari, East Champaran.

The learned court below will positively cancel the bail bonds of the petitioner, if, he defaults for two consecutive occasions during trial. The petitioner will not leave the territorial jurisdiction of East Champaran till conclusion of the trial without permission of learned trial court. The learned trial court will positively cancel the bail bond of the petitioner if he defaults on two consecutive occasions.

(Dinesh Kumar Singh, J)

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