

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5517 of 2019

Arising Out of PS. Case No.-170 Year-2018 Thana- GOVERNMENT OFFICIAL COMP.
District- Gaya

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Md. Shamim Md. Zabbar Resident of village Barepura Amjad ali lane
Chandni Chowk Jagdishpur, P.S.-Isak Chak, District-Bhagalpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ram Kumar Singh, Adv
For the Opposite Party/s : Mr.Ashok Kumar Singh,APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

6 15-05-2019 Heard learned counsel for the petitioner and

learned APP for the State.

Petitioner is in custody since 10.05.2018 in
connection with Excise Case No.170 of 2018 registered for
offence under Section 20(b) of the N.D.P.S. Act.

85 Kg of Ganja was allegedly recovered from
the vehicle of which the petitioner was driver. Some other
articles were also seized, such as several SIM Cards of mobile
phone etc.

The petitioner exercised his indefeasible right
of bail under Section 167 Cr.P.C. on 27.11.2018. The prayer has
been refused by the learned court below stating therein that
prosecution report was already received in the case on the same



day.

To verify the correctness of the same, the entire ordersheet was called for from the learned court below which reveals that first the prosecution report was received and later on, the petitioner filed a petition for grant of peremptory bail. Therefore, at the time of exercise of right, the prosecution report, after completion of investigation, was already there. Hence, there is no infirmity with the impugned order. As such, this application under Sections 439 and 440 of the Code of Criminal Procedure stands disposed of, in connection with Excise Case No.170 of 2018 pending in the court of learned District and Sessions Judge, Gaya, with liberty to the petitioner to move the learned court below for grant of bail on merit and thereafter the petitioner may proceed according to law.

(Birendra Kumar, J)

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