

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29543 of 2019

Arising Out of PS. Case No.-11 Year-2017 Thana- GOVERNMENT OFFICIAL COMP.
District- Gaya

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Praveen Yadav @ Pintu Yadav Son of Munni Yadav Resident of Village -
Jaigir, P.S.- Barachatti, Distt.- Gaya.

... .. Petitioner/s

Versus

1. The Union Of India Through N. C. V. Ministry Of Home Affairs, Zonal
Office, Patna Govt. Of India.
2. The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Abhay Kumar Thakur, Mr. Arvnendra Kumar Thakur
For the Opposite Party/s :		Mr.Satyadarshi Sanjay, A.S.G. Mrs. Shail Kumari

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

4 27-09-2019 Heard learned counsel for the petitioner and Mr. S.D.
Sanjay assisted by Mrs. Shail Kumari for the Union of India.

The petitioner seeks bail in NDPS Case No. 44/2017
arising out of NCB/PZU/Cr. No. 11/2017 instituted for the
offences under Sections 8(c), 15(c) of the N.D.P.S. Act.

The prosecution case in short is that on secret
information, a raid was made on 15.6.2017 at the cattle house of
Deoki Yadav and altogether 527 kg opium poppy husk was
recovered from the cattle house of Deoki Yadav. During course
of investigation, it was found that the cattle house was given on
rent to this petitioner.



It has been submitted on behalf of the petitioner that the petitioner is in custody since 18.6.2018 and has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. Charge-sheet has been submitted in the present case. The petitioner is not named in the F.I.R. The petitioner has been made accused due to mistake of fact. On search, 527 kg opium poppy husk is alleged to have been recovered. Learned counsel for the petitioner submits that at the time of preparing the panchnama, procedure of law was not followed. There is no compliance of Sections 42 and 50 of the N.D.P.S. Act. The petitioner has relied upon the cases of the Hon'ble Apex Court reported in (i) **2007 (7) SCC 798** (ii) **2008 (16) SCC 417** (iii) **2010 (4) SCC 402** (iv) **2018 (2) SCC 305** (v) **2018 (4) SCC 334** (vi) **2018 (8) SCC 271** (vii) **2018 (9) SCC 708** (viii) **2018 (11) SCC 570** (ix) **2018 (14) SCC 473**.

Mr. S.D. Sanjay, learned Additional Solicitor General assisted by Mrs. Shail Kumari, appearing on behalf of Union of India, submits that the name of the petitioner has transpired on the disclosure made by Deoki Yadav and the said Deoki Yadav is also facing prosecution under N.D.P.S. Act. A total of 527 kg of opium poppy husk is said to have been recovered from the premises of Deoki Yadav which was taken on rent by this



petitioner. The said contraband is recovered from the constructive possession of the petitioner. The seized contraband was sampled and sent for chemical examination. In the report, it has come that the same is opium poppy husk. A statement was made by Deoki Yadav under Section 67 of the N.D.P.S. Act in which he stated that the premises in question was taken on rent by the petitioner. The recovered quantity is more than the commercial quantity. Hence, the petitioner is not entitled for bail in the light of Section 37(1)(b)(ii) of the N.D.P.S. Act. The judgments relied by the petitioner are not applicable in the present case as the facts of the referred judgments are different from the facts of the present case.

Considering the aforesaid facts and circumstances, I am not inclined to grant bail to the petitioner. The prayer is rejected. The Trial Court is directed to take all necessary steps to conclude the trial preferably within one year from the date of receipt/production of a copy of this order.

(Sudhir Singh, J)

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