

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29552 of 2019

Arising Out of PS. Case No.-10 Year-2005 Thana- GOVERNMENT OFFICIAL COMP.
District- Saran

=====

Rajbali Paswan, aged about 49 years (Male), Son of Sohari Ram, resident of
Village- Goushiganj, P.S.- Ara (Town), District- Bhojpur.

... .. Petitioner

Versus

Union of India through Intelligence Officer, Narcotic Control Bureau,
S/18/138, Lalit Biharisen Road, Nedesar, Varanshi (U.P).

... .. Opposite Parties

=====

Appearance :

For the Petitioner/s :	Mr. Bachan Jee Ojha, Advocate
For the Opposite Party/s :	Mr. S.D. Sanjay, Addl. S.G.
	Mrs. Shail Kumari, C.G.C.
	Mrs. Priya Gupta, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

6 24-07-2019 Heard learned counsel for the petitioner and

learned counsel for the Union of India.

In this case, the petitioner is seeking anticipatory
bail in connection with N.D.P.S. Case No. 10 of 2005 pending in
the Court of the District and Sessions Judge-cum- Special
Judge, N.D.P.S. Act, Chapra (Saran), for the offence under
Section 8, 21 and 29 of the N.D.P.S. Act.

The N.D.P.S. Department received an information
that one Gajendra Kumar @ Munna Ji was likely to deliver
heroine to some Kolkata based party in Hotel Adarsh, Hathua
market, Kachahari road, Chapra on 15.08.2005. A team of



Narcotic Control Bureau was organized and raided the said hotel, arrested Gajendra Kumar, recovered 1 kg and 100 gm of heroin from his possession. Said Gajendra Kumar confessed his guilt and disclosed the name of Hemant Kumar Thakur @ Chhotu, Manoj Kumar and Ayodhaya Chouhan @ Lali Chouhan. When Police went to the house of Hemant Thakur, his brother namely, Ranjit Kumar was found present and disclosed the name of this petitioner. Accordingly, in follow up action, the house of the present petitioner was raided and searched in presence of his wife and found incrementing articles of heroin. On account of recovery of heroin, a separate case was lodged as N.D.P.C. Case No. 1(C) of 2005 at Ara. In Ara case, the Court below has found the charges proved against the petitioner and he has been sentenced for six months. Against that the petitioner has filed an appeal before this Court, which is pending for consideration. In the meantime, in Chapra case, in which huge quantity of heroin was recovered and the name of the petitioner was also surfaced to be involved in the crime, the petitioner has been called upon to face the trial.

Learned counsel for the petitioner submits that the case instituted at Ara as well as at Chapra is on same transaction, in Ara case the petitioner has already been



convicted for six month though he remained in jail for about four and half years. He further submits that both the cases should have been clubbed together, even if it is not clubbed it was the duty of the prosecution side that he should have been produced before the Court below with respect to Chapra case, but they have kept silent and not taken any step and as such, the petitioner is entitled to the relief of anticipatory bail.

Whereas, learned counsel for the Union of India submits that both the cases are quite different cases, one case has been instituted on account of recovery of huge quantity of heroin from a hotel and in course of investigation heroin was also recovered from the house of the petitioner, so both the cases cannot be said to be of same transaction rather both the cases are quite different, cannot be clubbed together. It has further been submitted that the present petitioner is a member of syndicate involved in the activity of illicit trafficking of contraband goods.

As huge quantity of heroin has been recovered from the hotel and on accurate information to the Narcotic Control Bureau that said contraband goods was to be delivered to some Kolkata based party, but in the meantime, the Police raided the hotel and recovered huge quantity of heroin, whereas at Ara only 120 gm. of heroin was recovered, so both cannot be



clubbed together. Furthermore, the matter relates to N.D.P.S. Act

Considering the aforesaid facts, this Court is not inclined to grant bail to the petitioner. Accordingly, the prayer for bail is rejected. However, if the petitioner surrenders before the Court below within three weeks from today and prays for regular bail, the Court below will consider the same and pass appropriate order without being influenced by the order of this Court.

(Shivaji Pandey, J)

pawan/-

U		T	
---	--	---	--

