

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.65373 of 2018

Arising Out of PS. Case No.-44 Year-2018 Thana- GOPALPUR District- Bhagalpur

Rakesh Kumar, Son of Shatrughan Rai, Resident of Village- Dharnipatti, P.S.-
Patori, O.P. Mohanpur, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Jitendra Narain Sinha, Sr. Advocate Mr. J.N. Sinha, Advocate
For the Opposite Party/s :		Mr. J.N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 10-01-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is languishing in custody since 09.02.2018 in a case registered for the offences punishable under Sections 420, 120B of the Indian Penal Code and Sections 20, 22 & 25 of NDPS Act.

The prosecution case as per the written report of Upendra Mukhiya, Sub-Inspector of Police, Rangara O.P. submitted to the Station House Officer of Gopalpur P.S. is to the effect that on 08.02.2018 at 9.00 A.M. while the informant was on examination duty received a secret information that one pick-up van loaded with contraband is coming within the territorial jurisdiction of the informant, consequently, raid was laid at NH-



31 and a pick-up van was intercepted and during search 40 sacks of ginger and 612 kgs. 850 gms. Ganja contained in 60 packets were recovered. The informant found that the petitioner was driving the intercepted vehicle.

It is submitted by learned counsel for the petitioner that the petitioner has no connection with the vehicle in question. It is further submitted that the petitioner is neither the driver nor the owner of the vehicle and the police in connivance with the owner of the vehicle in order to save him has falsely roped the petitioner in the present case. The petitioner simply took a lift in the vehicle in question and he was apprehended and the police allowed the driver and owner of the vehicle to escape from the scene. Hence, the recovery cannot be treated from the petitioner.

However, learned APP after going through the case diary submits that the petitioner was driving the vehicle in question when the seizure was made and the recovery is of huge quantity i.e., much more than the commercial one.

Considering the fact that more than 600 kgs of Ganja was recovered, the specific case of the prosecution is that the petitioner was driving the vehicle in question hence, in view of the embargo under Section 37 of the NPDS Act, this Court is not



inclined to grant bail to the petitioner in connection with Gopalpur (Rangra) P.S. Case No. 44 of 2018, pending in the Court of learned Additional Sessions Judge-Vth, Bhagalpur.

Accordingly, the prayer for bail of the petitioner is rejected.

It is expected from learned Additional Sessions Judge-V, Bhagalpur to expedite the trial.

(Dinesh Kumar Singh, J)

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