IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1348 of 2017

Arising Out of PS. Case No.-28 Year-2016 Thana- ASARGANJ District- Munger

==========

Rupesh Kumar @ Rupesh Kumar Baidh Son of Vishun Baidh, Resident of Village- Bikrampur, P.S.- Asarganj, Distt.- Munger.

... ... Petitioner

Versus

1. The State Of Bihar through the Secretary, Department Of Home, Government Of Bihar, Patna
2. The Director General of Police, Patna.
3. The Deputy Inspector General, Munger.
4. The Superintendent of Police, Munger.
5. The Deputy Superintendent of Police, Tarapur, Munger.
6. The Officer-in-Charge, Asarganj Police Station, Munger.
7. The Investigating Officer of Asarganj P.S. Case No. 28/2016, Munger.

... ... Respondents

==========

Appearance :
For the Petitioner : Mr.Kumar Kamal Nayan, Advocate
For the Respondent-State: Mr.Md. Nadeem Seraj GP-5

==========

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date : 13-05-2019

The petitioner has filed the present application under Article 226 of the Constitution of India for directing the respondents-authorities to investigate Asarganj P. S. Case No. 28 of 2016 dated 30.04.2016 registered under Sections 20 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') fairly and properly.

2. Learned counsel for the petitioner submitted that the petitioner is innocent. His implication is patently bad. There is no recovery of contraband from his possession. The

WEB COPY

investigation is being conducted by an officer, who was a member of the raiding party. The statutory provisions of the NDPS Act have not been followed.

3. Learned counsel for the State submitted that the grounds taken by the petitioner can be seen by the court below at an appropriate stage during trial. The petitioner is evading arrest. The court has issued non-bailable warrant of arrest and processes under Section 82 and 83 CrPC against him. In spite of cognizance having been taken and processes having been issued against the petitioner, he is not appearing before the court and it is only because of him, the trial is being delayed.

4. A counter-affidavit has been filed on behalf of respondent no. 4 wherein it has categorically been stated that the petitioner is absconding. The learned Session Judge, Munger has issued non-bailable warrant of arrest and processes against him but still he has not surrendered in court and is continuing to abscond. It is further stated that the learned Sessions Judge, Munger has already taken cognizance of the offence. The trial of the case is being delayed only because of non-appearance of the petitioner.

5. Having heard learned counsel for the parties and perused the materials on record, I find that the application is totally misconceived. The grounds taken by the petitioner can be

WEB COPY

his defence, which can be seen at an appropriate stage of the trial. However, the same cannot give rise to any presumption against the fairness of the investigation. The investigation is supposed to be free from any bias. An accused, who is evading arrest and is not abiding by the processes issued against him by the court cannot come to this Court and seek protection in the name of an unfair investigation without any cogent proof in that regard. In stead of approaching this Court, he ought to have appeared before the court below in compliance with the court's order.

6. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.05.2019
Transmission Date	NA

WEB COPY