

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.69674 of 2018

Arising Out of PS. Case No.-384 Year-2018 Thana- PURNEA SADAR District- Purnia

Mirtunjay Choudhary @ Mirtunjay Kumar, son of Ram Nandan Choudhary,
resident of Rambag, P.S. Sadar, District Purnia.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr.Kamal Kishore Jha, Advocate.
For the Opposite Party : Mr. Rana Randhir Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 01-02-2019 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner is apprehending his arrest in a case for
the offence registered under Sections 20 and 22 of the N.D.P.S.
Act.

The prosecution story, in brief, is that the informant is
police personnel. The S.H.O. of Sadar P.S. received secret
information that co-accused persons, namely, Makkhan
Chaudhary and petitioner Mirtunjay Chaudhary in Rambagh are
doing illegal business of contraband Ganja in a *Gumti* situated
in front of their house. Thereafter, S.H.O. of Sadar P.S. wrote a
letter to the S.P. Purnea, for constituting a police team for raid
and on the basis of said letter, the S.P. Purnea, constituted a team
headed by S.D.P.O. Sadar and on 10.07.2018 at about 16.30



hours, police proceeded from the P. S. and reached Rambagh Chauk at about 16.456 hours and after enquiry from the people gathered there regarding selling of Ganja by Makkhan Chaudhary and Mirtunjay Chaudhary (petitioner) from their betel shop, they reached near the betel shop (Gumti) of accused persons and accused persons after seeing the police had fled away from there, Police party in presence of independent witnesses started searching the joint betel shop of the accused persons and recovered 270 small *Puria* of contraband Ganja (Total weight 960 Grams) and 9.600 Kilograms of contraband Ganja including plastic bags from the house accused Makkhan Chaudhary.

It has been submitted by learned counsel for the petitioner that the petitioner has got no criminal antecedent. There is no allegation of tampering with the witnesses alleged against the petitioner. The petitioner has been made accused in the present case due to mistake of fact. It is alleged that 960 Gram Ganja is alleged to have been recovered from the Gumti of the petitioner. It is further alleged that 9.600 Kilogram of Ganja is said to have been recovered from the house in which the petitioner and one co-accused Makkhan Chaudhary reside. The alleged recovered Ganja is below the commercial quantity.



Search and seizure has been made in absence of the petitioner. There is no compliance of Sections 42 and 50 of the N.D.P.S. Act. The said contraband has not been recovered from conscious possession of the petitioner.

On behalf of the State, it is submitted that the petitioner is named in the F.I.R. The alleged recovery is said to have been made from joint house of the petitioner and co-accused Makkhan Chaudhary.

Considering the aforesaid facts and circumstances, I am not inclined to grant anticipatory bail to the petitioner. The same is rejected in connection with Special Case No. 10 of 2018, arising out of Sadar P.S. Case No. 384 of 2018, pending in the court of learned Special Judge, N.D.P.S. Act, Purnea. Anyhow, if the petitioner surrenders and prays for regular bail in the learned court below, the same shall be considered on its own merit without being prejudiced by this order of the Court.

(Sudhir Singh, J)

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