

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79618 of 2019

Arising Out of PS. Case No.-1050 Year-2019 Thana- AHIYAPUR District- Muzaffarpur

JATIN KUMAR @ JATIN Son of Late Dilip @ Prakash Yadav Resident of
Village - Naya Tola, Jurabganj, P.S.- Korha, District - Katihar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Chhote Lal Mishra
For the Opposite Party/s : Mr.Anil Kumar Singh No. 1

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

3 11-12-2019 Instant petition under Sections 439 and 440 of Criminal Procedure Code has been moved for grant of bail in F.I.R. No. 1050 of 2019 dated 29.08.2019 registered at Police Station Ahiyapur, District-Muzaffarpur under Sections 414/34 of the Indian Penal Code

I have heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State. I have also perused the relevant record of the case, necessary for adjudication of this petition.

Allegedly, on 29.08.2019, one kilogram Ganja, a contraband substance, was recovered from the conscious possession of the accused. The police party on checking the pillion rider and the person driving the motorcycle recovered the contraband substance from the pocket of Sonu Nigam. The



quantity recovered is less than commercial quantity as per notification issued under the Narcotic Drugs and Psychotropic Substance Act.

Learned counsel for the petitioner states that thus far investigation has not revealed anything incriminating against the petitioner and he has fully co-operated in investigation and no recovery is sought be made from him. Prima facie also it appears that thus far no case against the petitioner is made out indicating his complicity in the alleged crime. Petitioner stands falsely implicated in the crime.

It is submitted by learned counsel for the petitioner that the petitioner has roots in the society; is not likely to interfere in the investigation or influence any of the witnesses or destroy the evidence; is behind bars since 30.08.2019; no further custodial interrogation is required and he has fully cooperated in the investigation.

It is further submitted that petitioner had no knowledge of the main accused, who already stands enlarged on bail, of having indulged in the activity of dealing with the contraband substance. Prima facie, nothing is produced to highlight petitioner's direct involvement in the crime.

That apart, it has yet not been established that



recovered substance was Ganja.

Thus, this Court is of the considered view that petitioner has made out a case for grant of bail. Possibility of false implication, as is so alleged by the petitioner, cannot be ruled out. Also, thus far save and except for naming the petitioner in the F.I.R., no evidence corroborative in nature stands recorded by the police. Also, none has come forward to highlight the possible involvement of the petitioner in the crime. On what basis the Investigating Officer could link the accused to the crime is also not emanating from the record.

Be that as it may, having regard to the entirety of the facts and circumstances of the case, let the petitioner, named above, be released on bail on furnishing bail bond of Rs. 25,000/-(Twenty five thousand) with two sureties of like amount each to the satisfaction of learned Special Judge, Muzaffarpur in connection with Ahiyapur P.S. Case No. 1050 of 2019 on the following conditions:-

- (i) That one of the bailors of the petitioner shall be his close relative.
- (ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial.
- (iii) That the petitioner shall remain physically present



in court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bonds shall be liable to be cancelled by the learned court concerned.

(iv) The petitioner shall cooperate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

Any observation made herein shall not be construed to be an expression on the merits of the matter.

Petition stands disposed of in the above terms.

(Sanjay Karol, CJ)

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