

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84332 of 2019

Arising Out of PS. Case No.-265 Year-2019 Thana- SIKARPUR District- West Champaran

LALBABU YADAV @ LALBAHADUR YADAV Son of Vindhyachal Yadav
Resident of Village - Belbania, P.S.- Shikarpur, Distt.- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey
For the Opposite Party/s : Mr.Mukesh Kumar Singh

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

2 19-12-2019 Instant petition under Sections 439 and 440 of Criminal Procedure Code has been moved for grant of bail in F.I.R. No. 265 of 2019, dated 15.06.2019, registered at Police Station Shikarpur under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 and 20 and 22 of the Narcotic Drugs and Psychotropic Substance Act.

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, 40 litres illicit country made liquor and 1.200 grams Ganja were recovered, which fact is seriously disputed by the petitioner.

Prima facie, it appears that on the basis of



confessional statement of co-accused allegedly, under coercion, petitioner's complicity stands revealed in relation to recovery of contraband substance under the NDPS Act i.e., 1.2 Kg of Ganja, which falls within the purview of small quantity. Recovery is from an area accessible to general public. Planting of the substance has not been ruled out by the prosecution. *Ex-facie*, the case against the petitioner in relation to such crime is not made out.

Prima facie, nothing is produced to highlight petitioner's direct involvement 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 29.11.2019; no further recovery is to be made from the petitioner nor any custodial interrogation is required and the petitioner has fully cooperated in the investigation.

Keeping in view the provision of the special enactment i.e. Bihar Prohibition and Excise Act, 2016 as well as NDPS Act, 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 (Excise), Bettiah in connection with Shikarpur P.S. Case No. 265 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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