

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6332 of 2020

Arising Out of PS. Case No.-38 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- East Champaran

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SANDRIKA PRASAD SAH @ BHAGATJEE @ MUKHIYAJEE Son of
Mukhalal Sah Resident of Village - Pachrukha, P.S.- Banjariya, District - East
Champaran

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. The Union of India through Lallan Kumar Inspector (Private customs
(Preventive) Motihari.) Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr.Bimlesh Kumar Pandey
For the Opposite Party/s :	Mr.Nitya Nand Tiwary
	Mr. Ratnesh Kumar

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 01-07-2020 The matter has been taken up through virtual Court
proceeding.

Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner is languishing in jail since 1.7.2019 in a case
registered for the offences punishable under Sections 8 and
29(b)(ii)(c) of the NDPS Act (hereinafter referred to as ‘the
Act’).

The prosecution case, as per the complaint filed by Lallan
Kumar, Inspector (Prev.) Customs (Prev.) Division, Motihari
before the learned Sessions-cum-Special Judge, NDPS Act, is to
the effect that the Additional Director, DRI, Lucknow Zone sent
an intelligence input on 25.4.2019 with regard to the Ganja



being transported from Nepal through Raxaul and its being delivered to the petitioner. Consequently, the house of the petitioner was raided and in presence of his family members, 60 kilograms ganja was recovered, leading to the filing of the present case on 27.7.2019.

It is submitted by learned counsel for the petitioner that the actual seizure was made on 25.4.2019 but the complaint was filed on 27.7.2019 and there is no explanation for such a delay. It is further submitted that the recovery cannot be treated from the conscious physical possession of the petitioner as it has been recovered from the joint family house and that there is no likelihood of the trial being concluded in near future due to present pandemic Covid-19. However, in the meantime, the petitioner has been implicated in NDPS Case No. 7 of 2019 registered under Sections 20(b)(ii)(c) and 29 of the NDPS Act and in the similar manner, on the basis of intelligence input that the narcotic drugs is being transported from Nepal, raid was laid and from a truck, 214.790 kilograms charas were recovered. The petitioner was named in the said complaint along with co-accused Om Prakash Kumar Gupta alias Om Prakash and Asfaq Hawari alias Sukhari. In that case, the prayer for bail of the petitioner is pending vide Cr. Misc. No.14341 of 2020. It is



further submitted that in the other case also, the petitioner is named accused on the basis of statement of co-accused and apart from these two cases, the petitioner is not having any criminal antecedent. It is also submitted that the actual recovery has been made from the truck in question and not from the house of the petitioner.

Learned counsel for the Union of India submits that the delay in filing the complaint was due to investigation being carried out and during investigation, notice was issued to the petitioner but he never appeared.

Considering the fact that the prosecuting agency confirmed recovery of 60 kilograms of ganja from the house of the petitioner, hence, in view of the embargo under Section 37 of the NDPS Act applies which mandates that the bail could not be granted to such accused who are involved in commission of offences under Sections 19 or Section 24 or Section 27A of the Act and also the offences where recovery of contraband is of commercial quantity unless the Public Prosecutor is heard and the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail. However, there is no material on record to satisfy the conscience of this Court that



the petitioner is, prima-facie, not guilty nor that he will not misuse the privilege of bail, this Court is not inclined to grant bail to the petitioner above named in connection with NDPS Case No. 38 of 2019 pending in the Court of the learned Sessions Judge-cum-Special Judge, East Champaran, Motihari.

Prayer of the petitioner for bail is accordingly rejected.

(Dinesh Kumar Singh, J)

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