

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14276 of 2020**

Arising Out of Case No.-13 Year-2019 Thana- GOVERNMENT OFFICIAL COMP. District-
West Champaran

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Sharma Yadav (M), aged about 30 years, Son of Chandrika Yadav Resident of
Village - Daleya, P.S.- Kuchaikot, Dist.- Gopalganj.

... .. Petitioner/s

Versus

Union Of India through NCB, Patna, Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Udit Narayan Singh, Advocate

For the Opposite Party/s : Mr. S. D. Sanjay, ASG
Mr. Rakesh Kumar Sinha, CGC

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 08-06-2020

The matter has been heard *via* video conferencing
due to lockdown imposed on account of the COVID-19
pandemic.

2. Heard Mr. Udit Narayan Singh, learned counsel for
the petitioner and Mr. S D Sanjay, learned Additional Solicitor
General (hereinafter referred to as 'ASG') along with Mr.
Rakesh Kumar Sinha, learned Central Government Council for
the opposite party.

3. The petitioner is in custody in connection with
NDPS Case No. 18 of 2019 arising out of NCB Case No. 13 of
2019 dated 25.05.2019 instituted under Sections 8/2/20/25/29 of
The Narcotic Drugs and Psychotropic Substances Act, 1985



(hereinafter referred to as the 'Act').

4. The allegation against the petitioner and 12 others is that from the two vehicles on which they were travelling, which were seized by the authorities, a total of 240 Kgs. *ganja* in 45 packets was recovered.

5. Learned counsel for the petitioner submitted that as per the allegation, from two vehicles the said *ganja* was recovered, but it has not been specified as to whether it was from the conscious possession of the petitioner and further as to what amount has been recovered from which vehicle. Learned counsel submitted that the petitioner is in custody since 26.05.2019 having no criminal antecedent. It was further submitted that similarly situated co-accused Iqwal Mukhiya has been granted bail on 26.02.2020 in Cr. Misc. No. 10445 of 2020 whereas Dineshwar Yadav has been granted bail on 05.06.2020 in Cr. Misc. No. 17208 of 2020. Learned counsel submitted that charge has been framed and, thus, the Court had granted them bail in view of there being no scope of tampering with the evidence.

6. Learned ASG submitted that the commercial quantity of *ganja* is 20 Kgs. and in the present case 240 Kgs. was recovered. It was further submitted that there is no



relevance of the authorities having to divulge as to what quantity was recovered from which person for the reason that the vehicles are private and not commercial and, thus, the presumption is that all the caught travelling on such private vehicles were individually and equally liable for the recovery. Learned counsel submitted that framing of charge is not sufficient for release of the petitioner as there is adequate evidence against him and further, it does not preclude the petitioner from coming out from prison and again committing further such crime and also tampering with the evidence. It was further submitted that, if convicted, the petitioner faces 10 years imprisonment which may extend to 20 years, in terms of Section 37 of the Act. It was further submitted that the persons after getting bail do not cooperate in the trial which keeps on lingering for years together and in the meantime they keep indulging in such activities. Learned counsel further submitted that in the case of Iqwal Mukhiya, the Department has taken legal opinion and is likely to move the Hon'ble Supreme Court for cancellation of his bail.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioner on bail.



8. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J)

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