

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20267 of 2020

Arising out of PS. Case No.-3 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Nawada

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Ajay Kumar, Son of Late Sarvan Singh @ Late Sharvan Prasad Singh
Resident of Village - Rampur Dumra, P.S.- Marachi, District- Patna

... .. Petitioner/s

Versus

The Union of India, N.D.P.S. India

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sarvan Kumar, Advocate

For the Opposite Party/s : Mr. Uma Shankar Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 17-09-2020 The Court proceeding has been conducted
through virtual mode.

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

Since the court proceeding in physical mode is
non-functional, due to present pandemic, COVID-19, the
matter is listed with defects.

Learned counsel for the petitioner undertakes to
remove the defects within three weeks of resumption of
court proceeding in physical mode. In the eventuality of
non-removal of defects within undertaken period, the
office will place the matter before the bench.

The petitioner is languishing in custody since



24.01.2019 in a case registered for the offences punishable under Section 20(b) of the N.D.P.S. Act, hence, the prayer for bail has been made through the present application.

The prosecution case, as per the prosecution report of Binod Kumar Khalipha, Inspector (Excise), Nawada is to the effect that on 23.01.2019 at 10.15 A.M., one Honda Car was intercepted and on search total, 102.210 Kilograms ganja wrapped in 49 plastic bags were recovered. One person managed to escape from the scene but two persons Ajay Kumar, the petitioner and co-accused Lalita Devi were arrested.

It is submitted by learned counsel for the petitioner that petitioner has no concern with the Car in question and he was apprehended only on basis of suspicion and investigation has already been concluded and there is no likelihood of trial being concluded in near future in view of pandemic of COVID-19. A statement has been made in paragraph no. 3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that there is recovery of commercial quantity of ganja from the car in which the petitioner was found travelling and bail



application of similarly situated co-accused Madan Kushwaha, the driver of the vehicle in question has been rejected vide order dated 18.10.2019 passed in Cr. Misc. No. 77261 of 2019 by a Co-ordinate bench of this Court.

Considering the fact that the petitioner was travelling in the car in question from which 102.210 Kgs. ganja was recovered which is a commercial quantity, hence, the case comes within embargo of Section 37 of the N.D.P.S. Act which restricts the consideration for grant of bail if the case is registered under Sections 19, 24 and 27A of N.D.P.S. Act or there is recovery of commercial quantity of contraband unless the Public Prosecutor is given an opportunity to oppose the application for such release, the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of the offence or there is no likelihood of the accused to repeat the offence while on bail. There is nothing on record to suggest that the petitioner is prima facie not guilty of the offence or he will not commit any offence while being on bail.

This Court is not inclined to grant bail to the petitioner in connection with Special (NDPS) Case No.



3/19/1/19 pending before the Additional Sessions-I-cum-Special Judge, Nawada.

Accordingly, the prayer for bail of the petitioner is rejected.

Let the trial be expedited.

(Dinesh Kumar Singh, J)

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