

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20659 of 2020

Arising Out of PS. Case No.-404 Year-2019 Thana- RAXAUL District- East Champaran

Harender Raut, S/o Late Vishwanath Patel @ Late Bishwanath Raut R/o
Village- Katkenwa bhawanipur, P.S.- Adapur, Distt- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Dilip Kumar Tondon- Advocate Mr. Prateek Tandan- Advocate
For the Opposite Party/s	:	Mr. Ram Priya Sharan Singh- A.P.P.

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

ORAL ORDER

4 05-11-2020 The office has pointed out that in spite of filing
supplementary affidavit, some defects still exist.

Learned counsel for the petitioner submits that the
defects, as pointed out by the office, are ignorable.

Heard learned counsel appearing for the petitioner as
well as learned Public Prosecutor Incharge appearing for the
State through video conferencing.

Petitioner is in custody since 01.11.2019 and seeks
bail in connection with Raxaul P. S. Case No.404 of 2019
arising out of NDPS Case No.73 of 2019 registered for the
offences punishable under Sections 20, 22, 23, 24 of the
N.D.P.S. Act.

24 kilograms of Ganja is said to have been



recovered from the possession of the petitioner, but submission on behalf of the petitioner is that informant did not follow the mandatory provisions of N.D.P.S. Act and the seizure list goes to show that the recovery has not been made from conscious possession of the petitioner. Learned counsel for the petitioner further submits that petitioner does not have any criminal antecedent and is languishing in jail custody for near about one year. He further submits that one co-accused Lali Devi has already been granted privilege of bail by a Coordinate Bench of this Court.

On the other hand, learned P.P. Incharge opposed the prayer pointing out that seized Ganja comes under the category of commercial quantity and, therefore, petitioner does not deserve the privilege of bail.

No doubt, one co-accused Lali Devi has been granted privilege of bail by a Coordinate Bench of this Court, but the case of this petitioner is quite different to the case of co-accused Lali Devi, because according to prosecution case, it was petitioner, who was carrying Ganja. So far as the non-compliance of mandatory provisions of N.D.P.S. Act is concerned, it is not the stage to consider the above stated submissions because without giving opportunity to prosecution



to explain as to under what circumstance, the mandatory provisions of N.D.P.S. Act were not complied with, it would not be proper to grant bail to the petitioner and the above stated opportunity can only be given to prosecution in course of trial and not at the stage of consideration of bail.

Considering the aforesaid facts and circumstances of the case as well as submissions of the parties, I am not inclined to enlarge the petitioner on bail and, accordingly, his prayer for bail stands rejected.

However, the concerned Court is directed to expedite the trial of the petitioner and try to conclude the same as early as possible.

(Hemant Kumar Srivastava, J)

vikash/-

U		T	
---	--	---	--

