

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 22067 of 2020

Arising Out of PS Case No.-172 Year-2019 Thana- BOUNSI District- Banka

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Md. Toufic, aged about 35 years, Male, Son of Md. Rustam, Resident of
Village - Thokwa, P.S.- Dhamdaha, District- Purnia.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Singh, Advocate

For the State : Mr. Pramod Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 12-08-2020

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

2. Heard Mr. Anil Kumar Singh, learned counsel for the petitioner and Mr. Pramod Kumar Pandey, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioner is in custody in connection with Special Case No. 09 of 2019 arising out of Bounsi PS Case No. 172 of 2019 dated 11.07.2019, instituted under Sections 22, 08,



20(b)(ii)(C), 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

4. The prosecution case as per the self statement of Rajesh Kumar Yadav, ASI-cum-SHO, Bounsi Police Station recorded on 11.7.2019 at 1.30 P.M., is to the effect that he received a secret information that *Ganja* is being smuggled through a truck bearing registration no. BR-11-L 3011. Thereafter, a *Sanaha* diary entry was made and raid was made when a truck was intercepted from which a total of 705 kgs. *Ganja*, in 71 packets, was recovered and two persons being driver Md. Thihar and co-driver Md. Mir Mukhtar along with mobile phones were arrested. The driver and co-driver disclosed the name of the owner of the truck being Pintu Kumar. They also disclosed that co-accused Ranjit Chaudhary was the owner of the *Ganja*, who along with the petitioner and co-accused Pintu Kumar were dealing in the alleged business of contraband.

5. Learned counsel for the petitioner submitted that only on the basis of the confessional statement of the driver and co-driver, the petitioner has been made an accused. It was submitted that no recovery has been made from the petitioner. It was submitted that the petitioner is neither the owner of the truck nor has any connection with the same. Learned counsel submitted that



earlier the petitioner had moved the Court for Anticipatory Bail in Cr. Misc. No. 2928 of 2020, which was rejected on 24.01.2020, with a direction to surrender before the learned Court below and make prayer for regular bail, which was to be considered on the basis of the submissions noted in the order as well as materials collected during the investigation. Learned counsel submitted that the petitioner surrendered before the Court below on 17.03.2020 but his application was rejected. Learned counsel submitted that identically situated co-accused Ranjit Chaudhary who had been in custody since 12.07.2019, was granted bail by a co-ordinate Bench on 22.10.2019 in Cr. Misc. No. 62328 of 2019. It was submitted that the petitioner, on the other hand, has been in custody for four and a half months. It was further submitted that the petitioner has no other criminal antecedent.

6. Learned APP submitted that the petitioner is alleged to have been one of the persons for whom the contraband was being transported and was involved in such activities. However, he did not controvert the fact that the petitioner was neither caught nor any recovery has been made from him.

7. Considering the facts and circumstances of the case and submissions of learned counsel for the parties, especially that from the conscious physical possession of the petitioner, no



recovery has been made and he was neither the driver nor co-driver of the truck and co-accused Pintu Kumar is the owner of the truck in question and similarly situated co-accused Ranjit Chaudhary has been granted bail and further, that the petitioner has no other criminal antecedent, let the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge, Banka in Special Case No. 09 of 2019 arising out of Bounsi PS Case No. 172 of 2019 subject to the conditions (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any criminal activity, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds. The petitioner shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.



8. The application stands disposed off in the
aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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