

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24916 of 2020

Arising Out of PS. Case No.-71 Year-2018 Thana- JANKINAGAR District- Purnia

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ANGAD YADAV, aged about 35 years, Gender-Male, S/o Suresh Yadav @
Dulka Yadav, Resident of Village- Fulout, P.S.- Alamnagar (Fulout O.P.),
District- Madhepura.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Krishna Prasad Singh, Sr. Advocate and Mr.
Rakesh Singh, Advocate.

For the Opposite Party : Mr. Arun Kumar Pandey, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 10-12-2020 Due to COVID-19 Pandemic, the matter is being
taken up by way of Virtual Court Proceeding.

The matter has been listed under the heading ‘For
Orders’ under the orders of Hon’ble the Chief Justice.

Heard learned senior counsel for the petitioner and
learned A.P.P. for the State.

The petitioner is apprehending his arrest in a case for
the offence registered under Sections 8/20(B) of the N.D.P.S.
Act.

The prosecution story, in brief, is that the informant
being a P.S.I. of *Jankinagar Police Station*, on 16.05.2018 at
about 1.30 A.M., he received secret information regarding
transportation of contraband *Ganja* from *Sumo vehicle* bearing



Registration No. TR02D0365 and as per information, the said vehicle is going towards *Madhepura* loaded with contraband *Ganja*. The informant informed the Higher Officials and he alongwith other police personnel proceeded from the police station and reached *Chopra Market, Jankinagar near N.H. 107* and started checking the vehicle. After some time, the *S.D.P.O.*, and the *Circle Officer, Banmankhi* reached there. During the course of checking at about 3.00 A.M., the informant intercepted one white colour *Tata Sumo vehicle* bearing No. TR02D/0365. On being searched in presence of two independent witnesses, informant recovered *One Quintal and 30 Kilograms Ganja (130 kgs., Ganja)* from the said vehicle kept in plastic bag and other articles with cash from the possession of three persons boarded in the said vehicle as per seizure list. Accordingly, informant prepared seizure list. The boarded persons disclosed their names as (1) Sukanta Deb, (2) Palas Chakrabarthy and (3) Lavkush and arrested them. The apprehended persons stated that they were transporting the contraband *Ganja* from *Tripura State* to *Madhepura (Bihar)*, for smuggling.

It has been submitted by learned senior counsel for the petitioner that the petitioner has been made accused in the



present case due to mistake of fact. There is no allegation of tampering with the witnesses alleged against the petitioner. From possession of co-accused persons, 130 kgs., *Ganja* is said to have been recovered. The petitioner is not named in the F.I.R. The name of the petitioner has transpired in the present case on the basis of confessional statement of co-accused who were arrested on the spot. The said confession is alleged to have been recorded under Section 67 of the N.D.P.S. Act by one Sanjeev Kumar Choudhary, Sub Inspector of Police, of Jankinagar Police Station. Except for confessional statement, there is no other substantive evidence or corroborating evidence to suggest the implication of the petitioner in the present case. Learned senior counsel for the petitioner further relied upon the case of **Tofan Singh Vs. The State of Tamilnadu reported in 2020 SCC Online, 882**. It has been submitted by learned senior counsel for the petitioner that the Hon'ble Supreme Court in the aforesaid case has held that any confession made before a police officer is not admissible in light of Section 25 of the Evidence Act. There is no other material against the petitioner except for the confessional statement of co-accused. There is no recovery of contraband from conscious or constructive possession of the petitioner.



On behalf of the learned counsel for the State, it has been submitted that the petitioner is not named in the F.I.R.

Considering the aforesaid facts and circumstances, let the petitioner above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Ten Thousand Only) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge, Purnea, in connection with Supplementary Special Case No. 04/2018, arising out of Jankinagar P.S. Case No. 71/2018, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sudhir Singh, J)

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