

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.25485 of 2020**

Arising Out of PS. Case No.-356 Year-2019 Thana- JOGAPATTI District- West Champaran

Alok Sharma S/o Parmeshwar Sharma Resident of Village-
Koierigawan, P.S.-Yogapatti, District-West Champaran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Sachida Nand Rai, Advocate

For the Opposite Party/s : Mr.Akhileshwar Dayal, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 19-10-2020 Heard learned counsel for the petitioner and Mr.
Akhileshwar Dayal, learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with Yogapatti P.S. Case No. 356/2019 registered for the offence under Sections 18, 20, 21, 22 of the N.D.P.S. Act, pending in the court of learned District & Sessions Judge, Bettiah, District – West Champaran.

Learned counsel for the petitioner submits that it is a case of false implication of the petitioner because of his rivalry with his own gotias and co-accused Ramanand Yadav on account of a piece of land. The prosecution case from the FIR shows that on a secret information received by the informant police officer that a person has come for selling



Charas on the shop of one Sunil Kumar, police reached there with the constables and found that one person was taking tea in the shop of Sunil Kumar, a bicycle was standing there and one white colour bag (Jhola) was hanging with the said bicycle. The person who was taking tea disclosed that it was his bicycle and the bag. He further disclosed that one person had given him the bag on the shop and he had asked him to handover the same to one Triveni Mahto at Triveni Chowk, Pan Shop. The person who handed over the bag disclosed that he was the brother-in-law of the son of said Triveni Mahto. When the informant searched the said bag he found about 490 grams of Charas kept in a plastic Horlicks Dabba of 500 grams and Spasmo Proxyvon Plus 10 Capsules and Nitrazepan tablets IP 10 Tablets. The said persons disclosed his name as Ramanand Yadav, son of Shiv Bachan Yadav of village – Koirgawan, P.S. - Yogapatti, District – West Champaran, Bettiah.

Learned counsel submits that the said arrested person Ramanand Yadav made statement that he does not identify the person who had given him the bag for handing over the same to Triveni Mahto but later on as it appears the gotia of this petitioner who had some influence in the locality



with the police personnel reached on the spot on coming to know that Ramanand Yadav has been arrested. He told the police personnel that Ramanand Yadav is a simple person and he has been falsely implicated by Alok Sharma (the petitioner) who had given a call to the police.

Learned counsel submits that surprisingly the police left the said Ramanand Yadav and involved this petitioner on the statement of Guddu Sharma who is the gotia of this petitioner and with whom this petitioner is not maintaining good relationship and there is a land dispute between the petitioner and the apprehended accused Ramanand Yadav.

It is submitted that this petitioner has got one criminal antecedent of an offence under Section 323/324/504 of the I.P.C. in which he is on bail but in the present case the fact is that the said arrested person Ramanand Yadav had not identified the person who had handed over him the bag containing Charas and it is not believable that the petitioner would handover Charas of about 490 grams which will have a value of more than fifty lakhs only in order to falsely implicate the petitioner on account of a land dispute. It is submitted that in fact there is no material against the petitioner to connect him in the present case. It is also



submitted that the quantity of Charas being less than 1000 gm (commercial quantity) the rigours of Section 37 NDPS Act, 1985 would not apply.

On the other hand, learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner. It is submitted that the name of the petitioner has transpired in the statement of Guddu Sharma and there is a recovery of Charas measuring 490 gm from Ramanand Yadav which were allegedly got delivered to him by this petitioner through an unknown person in the name of delivering the same to one Triveni Mahto.

Having heard learned counsel for the petitioner and learned A.P.P. for the State and upon going to the materials available on the record, this court finds that so far as the recovery of Charas is concerned, it has been made from the possession of Ramanand Yadav who was arrested with the bag hanging with his bicycle. The said Ramanand Yadav has stated that one unknown person had come to him and handed over the bag to give it to Triveni Mahto at Triveni Chowk. He did not identify the said person who had given him the bag. The said Ramanand Yadav has not named this petitioner and later it has come in course of investigation that the said person



who had handed over the bag to Ramanand Yadav had disclosed that he is brother-in-law of the son of Triveni Mahto. This petitioner is said to have informed the police that Ramanand Yadav is going to sell the Charas whereupon said Ramanand Yadav was arrested. Later on the gotia of this petitioner reached on spot and made statement alleging role of this petitioner from behind. The petitioner has been made accused in this case. His confessional statement has also been recorded by police but nothing has been recovered from his possession. This court therefore takes a view that the only material which is there against the petitioner is a mere suspicion at this stage based on his prior enmity with Ramanand Yadav, there is neither any recovery from the possession of the petitioner nor the investigation reveals his connection at source if any from which such purchase of Charas may be traced and there is no criminal antecedent of the petitioner of similar offence, the quantity of Charas and tablets is said to be less than commercial quantity, the petitioner has been in jail since 19.03.2020, charge-sheet has been filed against him and there is no submission on behalf of the State that release of the petitioner at this stage is in any way likely to result in tampering with evidence or interfere



with the course of trial, this Court directs release of the petitioner on bail on furnishing bail bond of Rs. 50,000/- (Rupees Fifty Thousand only) with two sureties of the like amount each to the satisfaction of learned District & Sessions Judge, Bettiah, District – West Champaran, in connection with Yogapatti P.S. Case No. 356/2019, subject to the conditions as laid down under Section 437(3) of the Cr.P.C. as under:

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, or the commission of which he is suspected, and

(c) that such person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

Further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner.



And further condition that he will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic.

(Rajeev Ranjan Prasad, J)

arvind/Rajeev

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

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

