

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22648 of 2020

Arising Out of PS. Case No.-146 Year-2020 Thana- KATIHAR District- Katihar

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GOPAL KUMAR MAHTO Son of Tusilal Mahto Resident of Village -
Patthar Tola, P.S.- Kursela, Distt.- Katihar, At Present posted at G.R.P. Police
Station, Kishanganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Adv.
Mr. Sanjeev Kumar Singh
For the Opposite Party/s : Mr. J. N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 02-09-2020 The court proceeding has been conducted through
virtual mode.

Since the court proceeding is not functional in
physical mode, due to present Pandemic, Covid -19, the present
case has been listed with defects.

Learned counsel for the petitioner undertakes to
remove the defect(s) within a period of four weeks of
resumption of court proceeding in physical mode.

If the defect(s) is not removed within the undertaken
period, the office will place the matter again.

Heard learned counsel for the petitioner and the State.

The petitioner is languishing in custody since
22.02.2020, in a case registered for the offences punishable



under Sections 8(c) and 21 © of the N.D.P.S. Act.

The prosecution case, as per the self statement of Inspector of Police, Ranjan Kumar Singh, S.H.O., Katihar Town Police Station, recorded on 21.02.2020 at 06.15 P.M. is to the effect that on the same day at about 03.00 P.M., a confidential information was received that certain miscreants are dealing in trade of Heroine. Consequently, raid was laid and two accused persons, namely, Dharmendra Kumar and Rajesh Paswan were apprehended when from co-accused Dharmendra Kumar, total 870 grams of Heroine was recovered, whereas from co-accused, Rajesh Kumar, only two mobile phones were recovered. The apprehended co-accused Dharmendra Kumar suggested that he received the consignment from the petitioner.

Learned counsel for the petitioner submits that recovery has not been made from the conscious physical possession of the petitioner. The investigation has already been concluded. Though, subsequently, the house of the petitioner was raided and two and half kilograms of ganja were recovered, but for that recovery, a separate case has been registered, being Kishanganj Rail P.S. Case No. 9 of 2020. So far as present case is concerned, no offence under the provisions of N.D.P.S. Act is made out against the petitioner. It is further submitted that



investigation has already been concluded and in the present situation, created due to pandemic, Covid-19, since the court proceeding is not functional in physical mode, there is no likelihood of trial being concluded in near future.

Learned APP for the State submits that the name of the petitioner sprang up on the confession of apprehended co-accused Dharmendra Kumar, from whose possession, heroine was recovered.

Considering the fact that no recovery has been made from the conscious physical possession of the petitioner, the investigation has already been concluded, period under custody and the trial is not likely to be concluded due to the pandemic, Covid-19, let the petitioner above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned Sessions Judge-cum-Special Judge, NDPS, Katihar, in connection with Katihar Town P. S. Case No. 146 of 2020.

However, in view of the present pandemic COVID- 19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted



by such surety on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge, NDPS, Katihar, in connection with Katihar Town P. S. Case No. 146 of 2020.

The learned Court below will be at liberty to extend the period of provisional bail further if the court proceeding in physical mode will not resume in next three months.

Accordingly, the present application is disposed of.

(Dinesh Kumar Singh, J)

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