

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24274 of 2020

Arising Out of PS. Case No.-123 Year-2020 Thana- SARAIYA District- Muzaffarpur

GUDDU DUBEY @ SANTOSH KUMAR DUBEY Son of Sri Late Bhagya Narayan Dubey Resident of Village - Patahi, L.P. Sahi Road, P.S. - Sadar, District - Muzaffarpur and Permanent address Village - Anandpur, P.S. Saraiya, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Union of India through Ministry of Home Affairs, New Delhi. New Delhi.
3. Narcotics Control Bureau, Patna Zone Unit. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Y. V. Giri, Sr. Adv. Mr. Pranav Kumar
For the Opposite Party/s	:	Mr. Gauri Shankar Gupta
For Union of India	:	Ms. Prakritita Sharma, AC to ASG

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 3 01-12-2020 Heard learned Senior Counsel for the petitioner, learned Counsel appearing on behalf of Union of India and learned Additional Public Prosecutor for the State, through video conferencing.

This application, for grant of anticipatory bail, arises out of Saraiya Police Station Case No. 123 of 2020, disclosing offences under Sections 20/22 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

The prosecution case, as per the First Information Report, is that the police raided the house of the petitioner and upon seeing the police, the petitioner fled away and the police



recovered 21.5 kgs of ganja from the house of the petitioner. It has further been alleged that the wife of the petitioner, who was present in the house, did not give satisfactory reply regarding the recovered ganja from the house and she further confessed before the police that her husband is engaged in the illegal trade of ganja for the last ten years.

Learned Senior Counsel for the petitioner submits that the petitioner has not committed any offence in the manner alleged and has falsely been implicated in this case with oblique motive. He further submits that Section 51 of the Narcotic Drugs and Psychotropic Substances Act, 1985, envisages that the provisions of the Code of Criminal Procedure, 1973, shall apply in relation to search, seizure, arrest made under this Act and the police, at the time of search of the house of the petitioner, did not adhere to the provision prescribed under Section 100 (4) of the Code of Criminal Procedure, 1973 inasmuch as the search and seizure has not been made in presence of independent witnesses. He further submits that the house, from where ganja has been recovered, is a joint family house, in which other co-sharers also resides. He further submits that the petitioner is not residing in the joint family house situated at Anandpur, but reside at Patahi, Muzaffarpur and



representation to this effect was submitted by the mother-in-law of the petitioner before the Senior Superintendent of Police, Muzaffarpur (Annexure-3). He further submits that the wife of the petitioner has been granted regular bail by a co-ordinate Bench of this Court, vide order passed in Criminal Misc. No. 20397 of 2020.

Having regard to the submissions made on behalf of the parties and taking into consideration the materials on record and the fact that 21.5 kgs of ganja has been recovered from the house of the petitioner, I am not inclined to grant the petitioner privilege of anticipatory bail.

This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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