

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41532 of 2019

Arising Out of PS. Case No.-7 Year-2016 Thana- GOVERNMENT OFFICIAL COMP.
District- West Champaran

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RUBY DEVI @ SHAKUNTALA DEVI @ RUBI DEVI Wife of Shambhoo
Mahto @ Ram Babu Chaudhary Resident of Raxaul, P.S.- Raxaul, District -
East Champaran, Bihar

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR Bihar
2. Union of India through Intelligence Officer, Narcotics Control Bureau, Patna
Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Adv.
Mr. Manish Dhari Singh

For the Opposite Party/s : Mr. Akshay Lal Pandit, APP
For the UOI : Mr. K. N. Singh, ASG

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

9 07-09-2020 The court proceeding has been conducted through
virtual mode.

Heard Mr. Krishna Prasad Singh, learned Sr. counsel
for the petitioner and Mr. K.N. Singh, learned counsel for the
Narcotics Control Bureau.

The petitioner is languishing in custody since
22.09.2016, in a case registered for the offences punishable
under Sections 8, 12, 20 and 23 of the N.D.P.S. Act.

The prosecution case, as per the complaint filed by
an Intelligence Officer, Narcotic Control Bureau, Patna Zonal



Unit, Patna is to the effect that Mr. Anjay Kumar Rajak, Dy. Commandant, 44 Btn SSB, Narkatiaganj informed to Mr. Trilok Nath Singh, Assistant Director, Narcotics Control Bureau, Patna Zonal Unit about the interception of four women passengers carrying charas and opium at Narkatiyaganj Railway Station. Consequently, a raiding team was constituted and thereafter, the informant reached to Narkatiyaganj railway station on 21.09.2016 and entered into the general coach of Satyagrah express and on search of luggage, four women passengers were suspected to have been carrying contraband and from six bags being carried by four accused persons including the petitioner, total 29.8 Kg of Charas and 2.1 Kg of opium were recovered, leading to registration of FIR.

Learned counsel for the petitioner submits that no recovery has been made from the conscious physical possession of the petitioner and only on the basis of suspicion, the accusation has been levelled against the petitioner. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent. Moreover, the 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 Additional Solicitor General, however, submits that recovery is of commercial quantity of charas and hence, embargo of Section 37 of the NDPS Act will apply.

Considering the fact that commercial quantity of contraband has been recovered and Section 37 of the N.D.P.S. Act mandates that if the case is registered under Section 19, 24 and 27 of the N.D.P.S. Act or recovery is of commercial quantity of contraband, then the accused can be granted bail on three conditions, i.e., after hearing the public prosecutor, the court comes to a prima facie satisfaction that the accused is not guilty of the offence and there is no likelihood of such accused repeating the offence while on bail. In the present case, admittedly, commercial quantity of contraband has been recovered and the material on record does not suggest that the petitioner is not prima facie guilty of offence alleged, hence, this Court is not inclined to grant bail to the petitioner.

Accordingly, the prayer for bail of the petitioner, in connection with Trial No. 14 of 2017, arising out of NCB NDPS G.R. Case No. 18 of 2016, corresponding to N.C.B. Patna Case No. 07 of 2016, pending in the Court of learned 1st (Special Judge, N.D.P.S.) Bettiah, West Champaran is rejected.



Let the trial be expedited.

Accordingly, the present application is disposed of.

(Dinesh Kumar Singh, J)

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