

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67234 of 2019

Arising Out of PS. Case No.-73 Year-2018 Thana- SAHAYAK NAGAR District- Katihar

TAPAS DEV VERMA @ TAPASH DEB BARMA Son of Late Ramesh Dev Verma Resident of Village - Rajendra Para, P.S.- Khowai, Distt.- Khowai (Tripura).

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar Singh
For the Opposite Party/s : Mr.Bhanu Pratap Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 29-06-2020 The matter has been taken up through virtual court proceeding.

Heard.

The petitioner, who is languishing in custody since 01.02.2018, has preferred the present application for grant of bail in a case registered for the offences punishable under Sections 8, 20(b)(ii)(c), 25 and 29 of the N.D.P.S. Act.

The prosecution case, as per the self statement of S.I., Ajay Aman recorded on 30.01.2018 at about 10.15 A.M., is to the effect that on the same day, at about 12.30 A.M., a confidential information was received that ganja is being smuggled on a truck. Consequently, a truck, which was followed by a Bolero vehicle, were intercepted and three persons including the petitioner were apprehended from the truck and total 644.05 kg of ganja was recovered from the truck in



question. Subsequently, four co-accused accused persons, who were found travelling on the alleged Bolero vehicle were also apprehended.

It is submitted by learned counsel for the petitioner that the petitioner was simply travelling in the alleged truck and he was not aware about the ganja being loaded in the truck in question. It is further submitted that the investigation has already being concluded. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent. Moreover, all the four accused who were travelling by alleged Bolero vehicle, have been granted bail by different Co-ordinate benches of this Court.

Learned counsel for the Narcotics Control Bureau submits that the petitioner was apprehended from the truck, from which, recovery of huge quantity of ganja has been made and all the four co-accused persons, who were found travelling in the alleged Bolero vehicle have been granted bail since recovery has not been made from the alleged Bolero vehicle.

Section 37(b) of the NDPS Act mandates that no person accused of an offence punishable for offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity under the NDPS Act, shall be



released on bail or on his own bond unless (i) the Public Prosecutor has been given an opportunity to oppose the application for release of such accused, (ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that the accused is not prima facie guilty of such offence and that he is not likely to commit any offence while being on bail. In this case, there is nothing on record to convince this Court that the petitioner is not guilty of such offences nor there is any material to suggest that he is not likely to commit any offence while on bail.

In the circumstance, considering the commercial quantity of recovery of ganja and the embargo of Section 37(b) of the NDPS Act, which restricts grants of bail on recovery of commercial quantity, this Court is not inclined to grant bail to the petitioner.

Accordingly, the prayer for bail of the petitioner, in connection with Sahayak P.S. Case No. 73 of 2018 pending in the Court of learned Sessions Judge, Katihar is rejected.

The present application is dismissed.

(Dinesh Kumar Singh, J)

Amrendra/-

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