

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.72056 of 2019

Arising Out of PS. Case No.-2 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Sitamarhi

PRAMOD SAH (Male), aged about 31 years, son of Yogendra Sah, Resident
of Village - Purndaha Rajwara, P.S - Sonbarsa, District – Sitamarhi.

... .. Petitioner

Versus

1. The State of Bihar
2. The Union of India through Intelligence Officer, Narcotics Control Bureau,
Patna. Patna.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa, Advocate
For the Opposite Party/s : Mr. Ram Sumiran Rai, APP
For the N.C.B. : Mr. Ratnesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

19 04-11-2020 Heard learned counsel for the parties through
Virtual Court Proceeding.

In this case, the petitioner is seeking regular bail in
connection with Government Complaint Case No. C2-02 / 2019,
registered for the offence under Sections 8, 20 and 29 of the
N.D.P.S. Act.

Allegation has been made that two persons
including this petitioner, on a bike, were intercepted by a team
of the S.S.B. They were carrying a plastic bag and on search



huge quantity of Charas and Ganja has been recovered from the said plastic bag.

From the record, it appears that personal seizure has been made on the day of interception, which is apparently clear from page no. 25 of the brief and page no.22 of the brief shows the seizure memo of next date but, the bottom of the said page shows that the petitioner and his associate were kept in confinement by the Assistant Commandant and were handed over to the Officer of the Narcotics Control Bureau (N.C.B.) on 13.03.2019.

Learned counsel for the petitioner submits that the alleged Charas and Ganja were in joint possession not in exclusive possession of the petitioner.

In reply, learned counsel for the N.C.B. submits that huge quantity of Charas and Ganja has been recovered and such a huge quantity of Charas and Ganja cannot be kept on pocket as they were driving the bike so they have kept the same in between two persons on the bike.

Learned counsel for the petitioner further submits that co-accused Mithilesh Kumar has been granted bail by this Court in Criminal Miscellaneous No. 81638 of 2019, so this



petitioner may also be granted bail by this Court as he is languishing in jail for more than one and half years. However, this Court is not of the same view as has been taken in the case of said Mithilesh Kumar.

Learned counsel for the petitioner further submits that from the search memo it appears that actual seizure memo has been made on 13.03.2019 whereas, the recovery has been made on 12.03.2019 i.e. one day before, which is a huge delay in preparing the seizure memo and in the trial it cannot stand to the test of cross-examination. He next submits that after arrival of the officer of the N.C.B. they have started making proper search.

As has been stated that the petitioner and his associate were intercepted by the team of the S.S.B. and recovery has been made on 12.03.2019, which is apparently clear from personal search memo but, it was a matter of N.C.B. so, they were waiting for arrival of the officer of the N.C.B. and whereafter the Assistant Commandant has handed over the material along with the petitioner and his associate to the officer of the N.C.B.

Considering the aforesaid facts as also the quantity of the Charas and Ganja, which is spoiling the life and carrier of



the young persons as well as the society, this Court is not inclined to grant bail to the petitioner. Accordingly, the prayer for bail is rejected.

(Shivaji Pandey, J)

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