

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5087 of 2019**

Arising Out of PS. Case No.-550 Year-2018 Thana- BETTIAH CITY District- West
Champaran

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ATUL KUMAR S/o Sri Rahul Singh R/o Village- Lakhaura, P.S.- Lakhaura,
District- East Champaran

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Umesh Chandra Verma

For the Respondent/s : Mr.Sujit Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 03-09-2020 Heard the learned counsel for the appellant
and Sri Sujit Kumar Singh, the learned APP for the
State.

The present appeal has been filed against the
judgment of conviction dated 26.09.2019 and
order of sentence dated 30.09.2019, passed by the
learned District & Sessions Judge-cum-Special
Judge, NDPS Act, West Champaran, Bettiah in
connection with Bettiah Town PS case no. 550 of
2018,whereby and whereunder the appellant
herein has been convicted under Sections 20(b)(ii)
(C) of the N.D.P.S. Act and Sections 25(1-B) (a) of
the Arms Act and has been sentenced to undergo



rigorous imprisonment for a term of 10 years and pay fine of Rs. 1 lac under Sections 20(b)(ii)(C) of the N.D.P.S. Act and in default of the payment of fine, the appellant has been further sentenced to undergo imprisonment for a period of two years. As far as Section 25(1-B) (a) of the Arms Act is concerned, the appellant has been sentenced to undergo rigorous imprisonment for a term of one year and pay fine of Rs. 1,000/- and in default of the payment of fine, he has been directed to undergo further imprisonment for a period of 03 months.

The learned counsel appearing for the appellant has submitted that as far as the recovery of 1250 gm. of charas is concerned, the same has admittedly been made from the bag of the co-convict, namely, Gabbar Singh and as far as the appellant is concerned, no recovery of charas has been made. It is further submitted that there is gross inconsistency in the evidence adduced by the prosecution and the learned trial court, while recording the judgment of conviction, has ignored



the inconsistency in the statement of the prosecution witnesses as also has not considered the fact that there is no compliance of Section 50 of the NDPS Act, 1985 and the same has been blatantly flouted. It is further submitted that the appellant has remained in custody for a considerable period of time.

Per contra, the learned counsel for the State has supported the impugned judgment of conviction and sentence and has submitted that since the appellant has been sentenced to undergo rigorous imprisonment for a term of 10 years, it is too early to release the appellant on bail.

Considering the facts and circumstances of the case, the appellant, above named, is directed to be released on bail on furnishing bail bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned District & Sessions Judge-cum-Special Judge, NDPS ACT, West Champaran, Bettiah in connection with Trial No. 44 of 2018 (CIS No. NDPS Case No. 51 of 2018) arising out of Bettiah Town P.S. Case No. 550 of 2018.



List this appeal for hearing in due course.

(Mohit Kumar Shah, J)

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