

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85402 of 2019

Arising Out of PS. Case No.-81 Year-2014 Thana- DUMARIAGHAT District- East
Champaran

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Ram Bali Mukhiya @ Bali Mukhiya Son of Sohrai Mukhiya Resident of
Village - Hasuaha, P.S. - Motihari Mufassil, District - East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Krishna Kant Singh, Advocate

For the Opposite Party/s : Mr. J.N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 22-06-2020 The matter has been taken up through virtual Court
proceeding.

Heard learned counsel for the petitioner and
learned APP for the State.

The petitioner has renewed the prayer for bail in a
case registered for the offences punishable under Sections
414/34 of the Indian Penal Code, 1860 and Sections 20, 22 and
23 of the Narcotic Drugs and Psychotropic Substances Act,
1985 (hereinafter referred to as the 'Act').

The prosecution case, as per the written report of
Mithilesh Kumar Pandey, Station House Officer, Dumariyaghat
Police Station submitted to the District & Sessions Judge -cum-
Special Judge, East Champaran, Motihari, is to the effect that on
29.07.2014, the informant along with other police personnel was



on duty, when he received a confidential information that 4-5 smugglers are coming to Bishrampur Dubauli from Nepal with carrying Charas. Consequently, a raid was laid and on seeing the police party, four persons carrying basket in their hand and two persons borne on a motorcycle started fleeing away with motorcycle, though, on chase being made, they were apprehended and altogether, 45 kgs Charas were recovered. It is alleged that from the possession of the petitioner, 11.5 kgs Charas were recovered.

It is submitted by learned counsel for the petitioner that the petitioner has falsely been framed in the present case and is languishing in custody since 30.07.2014 and there is no likelihood of trial being concluded in near future as physical court is not functional due to present pandemic, COVID-19. It is further submitted that co-accused Dukhan Mukhiya, from whose possession, 11 kg Charas were recovered, has been granted bail by Co-ordinate bench of this Court vide Cr. Misc. No. 57161 of 2019, as contained in Annexure-3. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that commercial quantity of Charas has been recovered from the possession of



the petitioner.

Considering the fact that recovery is of much more than the commercial quantity of Charas from the possession of the petitioner, the report of learned 7th Additional Sessions Judge, East Champaran, Motihari dated 03.04.2020 which reflects that only I.O. has to be examined for which summon and D.O. letter to S.P. has been issued and the embargo under Section 37 of NDPS Act for consideration of grant of bail on recovery of commercial quantity of contraband, this Court is not inclined to grant bail to the petitioner in connection with N.D.P.S. Case No. 49 of 2014, arising out of Dumariyaghat P.S. Case No. 81 of 2014.

Accordingly, the prayer for bail of the petitioner is rejected.

However, it is expected from S.P., East Champaran, Motihari to produce the I.O.

It is expected from learned 7th Additional Sessions Judge, East Champaran, Motihari to conclude the trial within a period of two months after resumption of the physical court.

(Dinesh Kumar Singh, J)

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