

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1046 of 2020

Arising Out of PS. Case No.-1 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Purnia

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AKASH KUMAR S/o Sri Jay Ram R/o village- Maksudpur, P.S.- Fatuha,
District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :

For the Opposite Party/s : Mr.Ram Sumiran Rai

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

6 24-06-2020 The matter has been taken up through virtual court
proceeding.

Heard.

The petitioner, who is languishing in custody since
01.02.2019, has preferred the present application for grant of
bail in a case registered for the offences punishable under
Section 20(b) of the N.D.P.S. Act.

It appears that vide order dated 19.03.2020, learned
counsel for the petitioner was permitted to remove the defects
by 15th of April, 2020, but office note dated 29.05.2020 reflects
that defects have still not been removed.

Office is expected to list this matter on board if
defects are not removed within three weeks of resumption of



court proceeding in physical mode.

The prosecution case has been lodged on the basis of the report of the Inspector, Excise on recovery of 116 Kg of Ganja from a car which was being driven by the petitioner.

From the pleading made in the petition, it appears that the petitioner was not aware about Ganja being loaded on the vehicle in question. The investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP submits that the recovery has been made from the vehicle which was being driven by the petitioner.

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 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 such release, and (ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail. In this case, there is nothing on record to convince this Court that the petitioner is not guilty



of such offences nor 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 Special Case No. 08 of 2019/CIS No. 08 of 2019 (NDPS Act) arising out of P.R. Case No. 01 of 2018-19 pending in the Court of learned Special Judge, NDPS Act, Purnea is rejected.

The present application is dismissed.

(Dinesh Kumar Singh, J)

Amrendra/-

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