

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84459 of 2019

Arising Out of PS. Case No.-82 Year-2014 Thana- NAWANAGAR District- Buxar

SETHI SINGH S/o Sri Chandra Singh Resident of Village- Gausganj, P.S.-
Mufassil, Dist- Bhojpur at Ara

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
 2. The Union of India through the Director Narcotics Centre Bureau New Delhi or Regional Director, Narcotics Central Bureau, Lucknow (U.P.)
- Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjeet Choubey, Adv.
For the Opposite Party/s : Mr. Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 12-08-2020 The Court proceeding has been conducted through
virtual mode.

Heard learned counsel for the petitioner and the State.

The petitioner has renewed his prayer for bail third time in a case registered for the offences punishable under Sections 420, 414 of the Indian Penal Code and Sections 20(B)(ii) (C), 22, 27(A) and 29 of the NDPS Act.

The prosecution case, based on the self statement of Dharmendra Kumar, SHO of Nawanagar police station, is to the effect that on 23.04.2014 at 11.00 A.M. the police personnel came and informed that ganja is being transported on a truck through NH 30, when raid was laid and a truck was intercepted from which the driver Upendra Kumar Pathak, cleaner Amit Verma, co-accused Vikas Kumar Singh and Raju Singh were



apprehended. In the meantime, it was also found that certain big packets were being unloaded from the truck into one Scorpio vehicle. From Scorpio vehicle co-accused Nagina Rai, Uday Singh, Mritunjay Singh and petitioner Sethi Singh were apprehended. From the truck, total 667.380 kg of ganja were recovered whereas from the Scorpio vehicle, total 82.30 kg of ganja were recovered.

It is submitted by learned counsel for the petitioner that the petitioner was simply a passenger in the Scorpio vehicle in question and the recovery has not been made from the conscious physical possession of the petitioner. The petitioner is languishing in custody since 23.04.2014 and he undergone valve replacement. For the first time, the prayer for bail of the petitioner was rejected vide order dated 17.05.2016, passed in Cr. Misc. No. 15526 of 2015 when second time, the prayer for bail of the petitioner was rejected by this Court vide order dated 06.12.2017, passed in Cr. Misc. No. 6543 of 2017 with a liberty to the petitioner to renew prayer for bail if the trial is not concluded within a period of six months. Admittedly, the trial has not been concluded till date and in the present situation created due to pandemic, Covid-19, there is no likelihood of trial being concluded in near future.



Learned counsel for the State submits that much more than the commercial quantity of ganja were recovered from the Scorpio vehicle from which the petitioner was arrested.

After having considered the rival submission of the parties, it would be relevant to appreciate Section 37 of the NDPS Act. Section 37 of the NDPS Act mandates the grant of bail in a case registered under Sections 19, 24 and 27A of the NDPS Act or the recovery is of commercial quantity, only when the Public Prosecutor is heard and 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 such offence while on bail, but there is nothing on record to suggest that the petitioner is not accused of transporting commercial quantity of ganja or he will not misuse the privilege of bail.

Considering the report of learned Additional District and Sessions-II, Buxar, dated 04.02.2020 to the effect that the matter is at argument stage and the trial will be concluded within two months, this Court is not inclined to revise the earlier order.

Accordingly, the prayer for bail of the petitioner, in N.D.P.S. Case No. 05 of 2014, arising out of Nawanagar P.S.



Case No. 82 of 2014, pending in the Court of learned Additional District and Sessions Judge-IV, Buxar, is rejected.

However, it is expected from the learned trial court to conclude the trial expeditiously preferably within a period of six weeks on receipt/production of a copy of this order. If the trial will not be concluded within the aforesaid period, the petitioner will be at liberty to renew the prayer for bail.

The learned trial court is permitted to conclude the hearing and trial which are fixed for the argument through virtual mode also.

The application stands disposed of.

(Dinesh Kumar Singh, J)

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