

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13223 of 2021

Arising Out of PS. Case No.-41 Year-2018 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

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DINESH MAHTO S/o Sri Jato Mahto R/o village- Sitarampur, Raichiyahi,
P.S.- Matihani, Distt.- Begusarai

... .. Petitioner/s

Versus

THE UNION OF INDIA THROUGH NCB (NARCOTIC CONTROL
BUREAU) Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha, Adv.
For the NCB : Mr. Rama Kant Sharma, Sr. Adv.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 03-08-2021 In view of sudden resurgence of COVID-19 infection

there is limited functioning of the High Court and therefore the

matter has been listed for consideration through virtual mode.

Heard learned Counsel for the petitioner and learned
senior counsel for the Narcotic Control Bureau.

This Court would expect that the petitioner's Counsel
would honour his undertaking in the instant proceedings
regarding supply of requisite court fee etc. within two weeks
from the date he is called upon to do so by the office.

Petitioner seeks bail in Special Case No. 98 of 2018,
arising out of Officials Complaint No. F.No.-
NCB/PZU/V/41/2018 registered under Sections 8, 20 of the NDPS
Act.



The petitioner has renewed the prayer for grant of bail. Earlier his prayer was rejected in Cr. Misc. No. 35271 of 2019. Earlier when the matter was taken up, this Court had put a query to the petitioner's counsel whether there is any ground for getting over the bar to grant of bail under Section 37 of the NDPS Act, in view of the alleged recovery of more than 85 kg *Ganja* (commercial quantity) from the vehicle in which petitioner was found sitting at the time of alleged recovery.

Petitioner's counsel submits that in view of his custody since 02.09.2018, this Court may consider the prayer for bail.

Judgment of the Apex Court in case of ***Supreme Court Legal Aid Committee Vs. Union of India*** reported in ***1994 (6) SCC 731*** has clearly laid down the guidelines in this regard for consideration of bail based on period of custody. Subsequently, by order passed in ***Supreme Court Legal Aid Committee Vs. Union of India & Anr.*** reported in ***(1995)4 SCC 695***, the apex court has directed that the same guidelines be followed, applied and implemented in ten States, including the State of Bihar also.

Being faced with the said decision and the fact that petitioner's custody is about 2 months short of three years, the



petitioner's counsel is not in a position to bring it within the said guidelines for consideration of the prayer for bail based on period of custody. Petitioner is accused of the offences under Sections 8, 20 of the NDPS Act and much more than commercial quantity is alleged to have been recovered inviting sentence of not less than 10 years.

Learned senior counsel for NCB has also opposed the prayer.

Having regard to the facts and circumstances taken note of hereinabove, this Court is not inclined to grant bail to the petitioner. Accordingly, petitioner's prayer for bail is rejected.

(Madhuresh Prasad, J)

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