

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31933 of 2020

Arising Out of PS. Case No.-20 Year-2017 Thana- KATIHAR GRP CASE District- Katihar

Suman Biswas Son of Jayanta Biswas @ Jayanat Biswas Resident of Village-
Rajpur, P.S.- Kotwali, District- Coochbehar, West Bengal.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sourav Suman, Advocate

For the Opposite Party/s : Mr. APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 17-03-2021 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

The petitioner is languishing in custody for the offences punishable under Sections 8/20/22 of the N.D.P.S. Act and under Section 137/147 of the Railways Act in connection with Rail Katihar P.S. Case No. 20 of 2017.

The prosecution case is that the petitioner and co-accused Bishnu Burman were travelling on reservation berth Nos.11 and 12 of Coach No.A. 50 Kgs. of Ganja was recovered from the hanging bag of the petitioner on which the petitioner was sleeping keeping it near his head as well as from the trolley bag within the seat of the petitioner.

Petitioner is in custody since 02.03.2017.

In the past prayer for bail was thrice refused to the



petitioner by different coordinate Benches of this Court.

Submission is that the trial is still pending for prosecution evidence as per report of the trial Judge dated 16.11.2020. The petitioner is ready to cooperate with the trial. The petitioner has stated on oath that he has got no criminal antecedent and similarly situated co-accused Bishnu Burman was allowed bail by a coordinate Bench of this Court in Cr. Misc. No.32211 of 2020 on 05.01.2021.

A perusal of the order whereby co-accused Bishnu Burman was allowed bail would reveal that provisions of Section 37 of the N.D.P.S. Act and judgment of the Hon'ble Supreme Court in the case of **State of Kerala and others V. Rajesh and others** reported in **(2020) 12 SCC 122** was not brought to the notice of the Hon'ble Bench.

There is no dispute that commercial quantity of Ganja was recovered. Hence, the bar in the matter of grant of bail as contained in Section 37(b) of the N.D.P.S. Act is applicable.

Considering the material available; there is no reasonable ground for believing that the petitioner is not guilty for recovery of the commercial quantity of Ganja nor there is material to substantiate that in the event of release the petitioner would not commit such offence in future.



Hence, in my view, this is not a fit case for grant of
bail. Hence, the prayer for bail is refused.

(Birendra Kumar, J)

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