

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42587 of 2019

Arising Out of PS. Case No.-13 Year-2018 Thana- ECONOMIC OFFENCES, BIHAR
District- Patna

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Bhola Yadav Son of Late Raghupati Yadav Resident of Village - Dhobahan
Bazar, P.S.- Mufassil, Dist.- Patna.

... .. Petitioner/s

Versus

The State Of Bihar Through Economic Offence Unit Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha, Advocate

For the Opposite Party/s : Mr. V.N.P. Sinha (EOU)

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

7 27-04-2021 Heard the parties in virtual Court proceeding.

The petitioner is languishing in custody for the offences punishable under Sections 8/20(b)(ii)(c)/25/29 of the N.D.P.S. Act in connection with Special Case No.114 of 2018, arising out of Economic Offence P.S. Case No. 13 of 2018.

Petitioner is driver of the truck from which huge quantity of Ganja was recovered.

Submission is that other co-accused are owner of the Ganja and carrier of the same.

Since the Ganja was found in hidden condition it cannot be said that the petitioner has no knowledge about the 54 Kgs of Ganja in the vehicle. The petitioner has got no criminal antecedent. He is in custody since 10.10.2018.

Since Ganja was being carried after hiding in the cavity of



the truck it cannot be said that the petitioner has no knowledge about the Ganja. The requirement of Section 37 of the N.D.P.S. Act was considered by the Hon'ble Supreme Court in **State of Kerala Etc. V. Rajesh Etc.** reported in **AIR 2020 SC 721**. The Hon'ble Supreme Court held as follows:

“20. The scheme of Section 37 reveals that the exercise of power to grant bail is not only subject to the limitations contained under Section 439 of the Cr.P.C. but is also subject to the limitation placed by Section 37 which commences with non-obstante clause. The operative part of the said section is in the negative form prescribing the enlargement of bail to any person accused of commission of an offence under the Act, unless twin conditions are satisfied. The first condition is that the prosecution must be given an opportunity to oppose the application; and the second, is that the Court must be satisfied that there are reasonable grounds for believing that he is not guilty of such offence. If either of these two conditions is not satisfied, the ban for granting bail operates.

21. The expression “reasonable grounds” means something more than prima facie grounds. It contemplates substantial probable causes for



believing that the accused is not guilty of the alleged offence. The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence.”

Hence, the prayer for bail is refused.

(Birendra Kumar, J)

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