

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87167 of 2019

Arising Out of PS. Case No.-13 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- West Champaran

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Awadhesh Yadav, Son of Singhashan Yadav, Resident of - Saraiya Pandey
Tola, P.S.- Govindganj, Distt - East Champaran.

... .. Petitioner/s

Versus

The Union Of India through its Intelligent Officer, NDPS., Patna Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr.Adv. Mr.Madhav Rai, Adv.
For the Opposite Party/s :		Dr. K.N. Singh, A.S.G. Mr. Manoj Kumar Singh, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 25-01-2021 Heard Mr. Yogesh Chandra Verma, learned senior
counsel for the petitioner assisted by Mr. Madhav Raj, learned
advocate and Dr. K.N. Singh, learned Additional Solicitor General
assisted by Mr. Manoj Kumar Singh, learned advocate for the
Central Government.

Petitioner in the present case is seeking regular bail in
connection with N.D.P.S. Case No.18 of 2019 arising out of
F.No.NCB/PZU/V/13/2019 registered for the offences punishable
under Sections 8, 2, 20, 25 and 29 of the N.D.P.S. Act.

Learned senior counsel for the petitioner submits that it
seems highly improbable that altogether 13 persons will be
involved in transportation of 240 kg of Ganja. It is submitted that
the allegation against the petitioner is that he was also there in the



vehicle from which the Ganja was recovered but the fact remains that the Ganja has not been recovered from the person of the petitioner, therefore he cannot be said to be in conscious possession of the said Ganja.

Learned senior counsel further submits that the statement recorded by the officers from the Department who are though Gazetted Officer but the same would not be admissible on the same analogy on which the statement recorded by police is not to be admitted in the matters. Lastly, learned senior counsel has placed before this Court a copy of the order dated 05.06.2020 passed in Cr.Misc.No.17208 of 2020 (Dineshwar Yadav Vs. Union of India) and the order dated 26.02.2020 passed in Cr.Misc.No.10445 of 2020 (Iqwal Mukhiya @ Iqbal Mukhiya Vs. Union of India). It is submitted that the learned coordinate Bench of this Court has been pleased to grant them bail, therefore the petitioner also deserves privilege of regular bail.

On the other hand, Dr. K.N. Singh, learned Additional Solicitor General has submitted that considering the bar under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act'), the recovery being that of a commercial quantity, unless the petitioner satisfies the twin conditions, he would not deserve the privilege of bail. It is submitted that under Section 37 the petitioner will have to satisfy



this Court that there are reasonable grounds for believing that he has not committed the offence alleged against him and then if released on bail he would not be indulging in any offence. It is submitted that at this stage when he has been found in the vehicle and has been arrested on the spot and in course of search from the vehicle huge quantity of Ganja has been recovered, there is no material before this Court to show that he would not be involved in the alleged offence.

Learned Additional Solicitor General has further placed before this Court a copy of the order dated 11.06.2020 passed in Cr.Misc.No.18436 of 2020 by another learned coordinate Bench of this Court. It is pointed out that the prayer for bail of co-accused Lalan Yadav and six others were earlier rejected but by suppressing this fact Lalan Yadav moved this Court for grant of bail in Cr.Misc.No.18436 of 2020 and when it was pointed out to the learned coordinate Bench, the learned coordinate Bench has been pleased to issue show cause notice to the deponent Singal Yadav. It is submitted that the materials on record show that all these persons were operating as a gang and were dealing with the Narcotics Drugs and in fact in his statement recorded before the Gazetted Officer the petitioner has accepted that he was involved in the alleged occurrence.

It is lastly submitted that it seems before the learned



coordinate Bench, in the case of Dineshwar Yadav and Iqbal Mukhiya the complete facts were not placed and learned coordinate Bench in those cases were not informed of the fact that another learned coordinate Bench has rejected the prayer for bail of some of the co-accused.

Be that as it may, considering the bar under Section 37 of the NDPS Act and upon finding that for the present at least petitioner is not satisfying the conditions enunciated thereunder, this Court is not inclined to grant privilege of regular bail to him.

Let the trial be expedited.

The learned trial court shall proceed with the trial without granting unnecessary adjournments and all endeavours shall be made to conclude the trial preferably within a period of six months from today.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

