

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54109 of 2021

Arising Out of PS. Case No.-570 Year-2019 Thana- BARACHATTI District- Gaya

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Shyam Bisnoi @ Shyam Beniwal, S/O Gordhan Bisnoi @ Gordhan Ram Beniwal @ Gordhan Beniwal, R/O Plot No. 10, Khokhriya Bera Ranaji Ke Bag, Jodhpur, District-Jodhpur Rajasthan.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Ramakant Sharma, Sr. Advocate and Mr. Rajesh Kumar, Advocate

For the Opposite Party : Mr. Md. Mushtaque Alam, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 30-03-2022 Heard learned senior counsel for the petitioner and learned A.P.P. for the State.

Learned counsel for the petitioner is directed to remove the defects, as pointed out by the office, within a period of four weeks.

The petitioner is apprehending his arrest in connection with Barachatti P.S. Case No. 570 of 2019 for the offence registered under Sections 22/22 of the N.D.P.S. Act.

The prosecution story, in brief, is that on 24.11.2019 at about 10.00 P.M. while the informant was on patrolling duty alongwith members of armed force then on 25.11.2019 at about



3.00 A.M., he received information that the Truck bearing Registration No. RJ19 GF-2597 was carrying *Doda* for smuggling. Whereupon he started checking alongwith C.O. Barachatti in front of main gate of P.S. It has further been alleged that at about 6.00 A.M., the said Truck was stopped and on being asked the driver thereof, disclosed his name as Balvant Ram. The said Truck was searched before two independent witnesses following the rules of search. On which, a large quantity of *Doda* weighing 1538 kg., was recovered from the said Truck and a Mobile and cash of Rs. 32,500/- was recovered from the possession of accused Balvant Ram but the said accused could not produce any document in connection with the recovered materials. On being asked, accused disclosed that he had started from Durgapur Transporting Iron rod, in the meanwhile, accused Pokhraj called him and said that one person would call him from the Mobile No. 7294808602, who would ask him to load *Doda* on the Truck. Thereafter, accused Balvant Ram received call from the said Mobile Number and on his direction, he reached at Barhi. Thereafter, the said accused person took the Truck to Chapi, where the aforesaid *Doda* was loaded. Thereafter, the said recovered articles were seized and seizure list was prepared.



It has been submitted by learned senior counsel for the petitioner that the petitioner has got no criminal antecedent. There is no allegation of tampering with the witnesses alleged against the petitioner. The petitioner has been made accused in the present case due to mistake of fact. Altogether 1538 kg., poppy straw was recovered. As per prosecution, the petitioner is alleged to be the owner of the said Lorry/Truck. It has further been submitted that the Truck in question was already sold by the petitioner in the year 2017. The present case relates to the year 2019. The petitioner had no knowledge regarding the alleged incident. The onus is on the purchaser to get the name of the ownership of the Truck in question transferred on his name.

On behalf of the State, it is submitted that the petitioner is named in the F.I.R.

Considering the aforesaid facts and circumstances of the case, let the petitioner above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge-III, Gaya, in connection with Barachatti P.S. Case No. 570 of 2019, subject to the conditions



as laid down under Section 438(2) of the Code of Criminal
Procedure.

(Sudhir Singh, J)

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