

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57561 of 2021

Arising Out of PS. Case No.-75 Year-2021 Thana- SHERGHATI District- Gaya

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AWNISH KUMAR SON OF VINAY PRASAD R/O VILLAGE-
MADHOPUR MATH, P.S.- GHOSI, DISTRICT- JAHANABAD

... .. Petitioner.

Versus

The State of Bihar

... .. Opposite Party.

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Appearance :

For the Petitioner : Mr. Shankar Kumar, Advocate.
For the State : Mr. Sanjay Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

3 31-01-2022 The applicant/accused in Crime No.75 of 2021 registered with Police Station-Sherghati (Dobhi) for the offences punishable under Sections 8 and 20(b)(ii)(c), 25, 29, 59(2) of the Narcotic Drugs and Psychotropic Substance Act, 1985, by this application is seeking his release on bail during the pendency of the trial.

The learned counsel appearing for the applicant submitted that the investigation of the crime in question is over and the chargesheet has been filed. It is further argued that even as per the case of the prosecution, the intercepted persons have stated that there was demand of illegal gratification amounting to Rs.5,00,000/- and they were going to pay that amount to the Officers of the Excise Department. However, such amount of Rs.5,00,000/- is not recovered from those accused persons. It is



further argued that the applicant had informed the higher Officers regarding stopping of the pickup van and out of fear it was kept at some other place. The Superior Officers of the applicant have also stated so and the applicant is falsely implicated in the crime in question.

The learned A.P.P. opposed the application by relying on the counter affidavit filed by the Investigating Officer.

I have considered the submissions so advanced and also perused the materials placed before me.

In the case in hand, seizure is of 253 kilograms of Ganja. According to the prosecution case, Police Inspector of the Economic Offence Wing of Patna had received secret information that some accused persons are importing Ganja from Odisha and they are using different vehicles as well as different entry points for importing Ganja in Bihar. A team of police men was formed for unearthing this racket of import of Ganja. That police team intercepted a Honda City vehicle on the basis of confirmed information regarding the contraband. Four accused persons were found travelling in that Honda City vehicle. From interrogation of those four accused persons, the Investigating Officer came to know that the Officials of the Excise Department had already intercepted a pickup vehicle at



G.T. Road and are demanding an amount of Rs.5,00,000/- for letting that pickup vehicle containing the contraband go without any legal action. Further investigation by the Economic Offence Wing of the State reveals that accused Officers of the Excise Department had intercepted the pickup vehicle bearing Registration No.JH01Z0342 and had kept that pickup vehicle concealed at particular place. The Officers of the Excise Department including the present applicant who happens to be Constable were waiting for the accused persons to come for making payment of illegal gratification amounting to Rs.5,00,000/- by keeping that pickup vehicle in their possession. The pickup vehicle was found to be containing 253 kilograms of Ganja kept concealed in the secret chamber made in the floor of that pickup vehicle. Ultimately, the Investigating Officer found that the applicant so also the other accused Officers of the Excise Department were possessing the contraband illegally and without taking any legal action thereon such as registration of the F.I.R. or seizure thereof. They were found to be indulged in extorting illegal gratification from the co-accused who were transporting the contraband in commercial quantity.

Perusal of the material placed on record prima facie shows that apart from the offences punishable under the Indian



Penal Code and N.D.P.S. Act, the applicant and other co-accused belonging to the Excise Department have also committed the offence punishable under the Prevention of Corruption Act, 1988, in demanding illegal gratification from the co-accused for foregoing to take legal action against them.

Considering the nature of the offence and the manner in which the same is committed by the Public Servants, in my considered opinion, the applicant who is Public Servant is not entitled for bail in the instant case. The application is accordingly rejected.

(A. M. Badar, J)

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