

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57119 of 2021**

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

Mukesh Kumar Son of Mr. Gajendra Sharma Resident of Village- Malsar,
P.S.- Bithan, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Thakur, Advocate.

For the Opposite Party/s : Mr. Aditya Narayan Singh.1, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 14-07-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Ajay Thakur, learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Sherghati (Dobhi) P. S. Case No. 75 of 2021 registered for the offences punishable under Sections 8, 20 (b) (ii)(c), 25, 29, 59 (2) of the Narcotic Drugs and Psychotropic



Substance Act.

The prosecution case is based on a written report of the Sub-Inspector, namely, Lallan Kumar, who alleged that on a secret information that huge quantity of *ganja* is being carried from Honda City vehicle, constituted a special team and intercepted the vehicle and apprehended four persons. On query, they disclosed that their consignment of *ganja* was coming from Odisha to Ara (Bihar) from a Pick-UP vehicle No. JH-01Z-0342. However, the same was caught by the Police and they demanded Rs. 5,00,000/- to release that vehicle illegally, so they are going to Dobhi for getting the vehicle released. It is further alleged that the petitioner is an officer of Excise Department and he in collusion with other staff and officers demanded bribe of Rs. 5,00,000/- to release the said vehicle along with the *ganja* carrying on the vehicle and on the aforesaid information the petitioner was apprehended at the spot and both the vehicles along with *ganja* were also seized.

Learned counsel appearing on behalf of the petitioner submitted that that from the F.I.R., it is evident that the petitioner, who happens to be probationary Excise Sub-Inspector was checking the vehicle and in course of checking, he intercepted the Pick-UP vehicle No. JH-01Z-0342, in which



ganja was loaded and arrested the driver and Khalasi and also prepared seizure memo. The same was also seized from the possession of this petitioner and it has also been annexed as annexure 2 to this application, which will show the arrest of the driver and khalasi and the recovery of *ganja*. It is further submitted that the driver of the pick-up vehicle informed the real owner but they came out with local Police by making a false case of bribery, the falsity of which is evident from the fact that neither any money much less Rs. 5,00,000/- was recovered from the possession of the four persons, who made the allegation of bribery nor there was any seizure list showing recovery of Rs. 5,00,000/- from any vehicle. It is next submitted that the petitioner is a public servant having fair antecedent and he is in custody since 04.02.2021, apart from the fact the investigation of the crime is completed and the charge-sheet has been submitted.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the petitioner was found to be involved in demanding of bribe of Rs. 5,00,000/- for release of the vehicle wherein a huge quantity of *ganja* was loaded. It is further submitted that the act of the petitioner is of unbecoming of a Police Officer.



Having considered the submissions made on behalf of the parties and taking into account the fact that at no point of time any recovery of Rs. 5,00,000/- either from the vehicle or from the possession of the apprehended persons has been made, which falsify the case of demand of Rs. 5,00,000/- as a bribe for release of vehicle and the driver and *khalasi*, who were apprehended with the vehicle, apart from that the petitioner is a public servant and is in custody since 04.02.2021 having fair antecedent and moreover, no case is made out against the petitioner under the Narcotic Drugs and Psychotropic Substance Act, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, N.D.P.S. Act-cum-Additional Sessions Judge 1st, Gaya in connection with Sherghati (Dobhi) P. S. Case No. 75 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.



- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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