

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.50670 of 2022

Arising Out of PS. Case No.-22 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

Tunu Mahto @ Nunu S/O Umesh Mahto R/O- Village - Raghopur Bangalpar,
P.S.- Bihta, Dist.- Patna.

... .. Petitioner/s

Versus

1. The Union of India, Narcotic Control Bureau, Patna. Bihar
2. The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate
For the Opposite Party/s : Mr. Satya Nand Shukla, APP

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA

ORAL ORDER

3 16-12-2022

The matter has been taken-up through video conference.

Heard learned counsel for the petitioner, learned A.P.P for
the State and learned counsel for the Union of India.

Let the defect(s), as pointed out by the office, be removed
within a period of four weeks from today.

The petitioner seeks bail in connection with a case
registered for the offences punishable under Sections 8(C),
20(b)(ii)(c) of 8 NDPS Act.

The prosecution case in short is that on apprehending
Rajesh Kumar from a truck bearing Registration No.
WB73E4090, 774.800 Kg of contraband *Ganja* was recovered
from the said truck. On interrogation Rajesh Kumar his
involvement in trafficking of seized contraband (*Ganja*) and
disclosed the name of Bablu Kumar Singh son of Lallan Kumar



Singh. On further follow-up action petitioner was arrested, who confessed before the Narcotics Control Bureau (NCB), Patna Zone Unit about his complicity.

Learned Counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. It is submitted that the said *ganja* was recovered from one Rajesh Kumar, who is the driver of the said truck and he was arrested from the truck by the police and accordingly, F.I.R. was lodged against the accused persons. It is further submitted that the petitioner is not named in the F.I.R. and his name transpired in this case on the basis of follow-up action and his confessional statement. Further, it is submitted that the petitioner is neither the owner nor he has any concern with the said truck. No incriminating articles have been recovered from the conscious possession of the petitioner. Further, it is submitted that the petitioner is in custody since 11.11.2021, is a person with clean antecedent.

Learned counsel for the Union of India submits that the accused petitioner was arrested and he was examined under Section 67 of the NDPS Act on 10.11.2021, wherein, he voluntarily admitted his role in trafficking of the seized *ganja* in greed of money. He further submits that he had arranged the truck driver, namely, Rajesh Kumar, for transporting of *ganja*



and an amount of Rs. 15,000/- was given to the driver for expenses as per the direction given by Bablu Kumar Singh (Receiver of seized contraband). It is further submitted that as per CAF of Mobile No. 8658633235, being used for trafficking of *ganja* was also found in the name of the petitioner, which corroborates the statements of accused petitioner and co-accused Rajesh Kumar. Hence, the Section 8(c) read with 20(b)ii(c), 25 and 29 of the NDPS Act, 1985, imposed against the accused persons are totally justified according to the law.

Learned A.P.P for the State opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of this case, the petitioner is neither named in the complaint case nor his name was disclosed by Rajesh Kumar, who was apprehended on the spot. Further, it is also stated that no incriminating article has been recovered from his possession and that Rajesh Kumar has explicitly named Bablu Kumar Singh as receiver of the contraband article in his confessional statement and that there is no criminal antecedent of the petitioner, the above named petitioner is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) only with two sureties of the like amount each to the satisfaction of the learned Add. Dist & Sessions Judge 4th Bhojpur at Ara in connection with NDPS



Case No. 33 of 2021 arising out of NCB/PUZA Crima No. 22 of 2019, subject to following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. One of the bailors will be his own blood relation, preferably father, mother, brother, sister and or his wife.

3. The bailor shall also state on affidavit that he will inform the court concerned if the petitioner is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

4. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Khatim Reza, J)

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