

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2993 of 2022

Arising Out of PS. Case No.-177 Year-2021 Thana- GAYA RAIL P.S. District- Gaya

JITENDRA SINGH S/O BHAGWAN SINGH YADAV @ BHAGWAN
SINGH R/o village- Biloniya, P.S.- Cantt, Distt.- Gunna, Madhya Pradesh.
... .. Petitioner/s

Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sumit Shekhar Pandey, Adv.

For the Opposite Party/s : Mr. Narsingh Tanti, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 09-06-2022 Heard the learned counsel for the petitioner and the
learned A.P.P. for the State.

The petitioner seeks bail in connection with N.D.P.S.
Case No. 73/2021 arising out of Gaya Rail P.S. Case No.
177/2021 lodged under Sections 8/20(b) (ii) (c) of the N.D.P.S.
Act.

The learned counsel for the petitioner submits that
sections under which the present case has been filed is not
applicable at all in the present case. He categorically submits
that Section 8 of the N.D.P.S. Act is a substantive section in
which punishment not retracted. He further submits that the
recovery of Poppy Straw alleged to be made from the
possession of the petitioner, whereas Section 20 of N.D.P.S. is
applicable for cannabis plants and cannabis and therefore,
Section 20 as whole of N.D.P.S. Act is not applicable at all in
the present case. He further submits that the recovered N.D.P.S.



material is Poppy Straw which comes at serial no. 110 in the notification made as per Section 2 of the Act in the table. According to him, the small quantity prescribed is one kg. whereas the commercial quantity prescribed is 50 kg. He further submits that a quantity which is much lesser than the commercial quantity i.e. 15.500 kg. Poppy Straw has been recovered from the possession of the petitioner. He also submits that Section 37 (i) (b) of the N.D.P.S. Act clearly indicates that no accused of an offence punishable for Section 19, Section 24 or Section 27 (A) shall be released on bail or his own bonds only fulfilling certain conditions which are laid down in the statute itself. He further submits that there is no restriction created by the statute in granting bail for the offences other than Sections 19, 24 & 27 (A) of the N.D.P.S. Act. He also submits that recovered N.D.P.S. material is much less than the commercial quantity and considering the period of custody i.e. 23.09.2021, having clean antecedent, the petitioner may be granted bail. He also submits that there is gross violation of section 50 and therefore, bail may be granted to the petitioner.

Learned APP for the State has opposed the prayer for bail, he submits that recovery of N.D.P.S. material from the possession of the petitioner is 15.500 kg and it is much more



than small quantity. He further submits that even if for the sake of argument, Section 20 is not applied but Section 22 (b) of the Act shall apply, and in this Section punishment prescribed is rigorous imprisonment for a term which may extend to ten years and with fine which may extend to one lakh rupees, when the contravention involves quantity lesser than commercial but greater than small quantity.

Considering the facts of this case that the sections mentioned in the FIR, may not be attracted but only by virtue of that the criminal case shall not be ended due to the reason that other Sections are applicable in the present case i.e. Section 22 (b) in which the punishment is upto ten years and fine upto rupees one lakh.

Learned counsel for the petitioner has not in a position to inform that whether charge has framed in this or not. At this stage, I am not inclined to grant bail to the petitioner. Accordingly, the bail petition of the petitioner hereby rejected.

Let the trial court is directed to expedite the trial as early as possible.

(Dr. Anshuman, J)

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