

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60915 of 2022

Arising Out of PS. Case No.-462 Year-2021 Thana- SUGAULI District- East Champaran

Sahabuddin Dewan, Son Of Saleem Dewan R/V- Jhakhiya, P.S.- Banjariya,
District- East Champaran

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Baijnath Sah

For the Opposite Party/s : Mr.Sangeeta Sharma

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

6 03-07-2023 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner seeks bail in anticipation of his arrest in
a case registered for the offences punishable under Sections
20(b)(ii)(c), 23, 27(a), 29 of the N.D.P.S. Act.

The learned counsel for the petitioner submits that the
petitioner has antecedent of two cases, one under Section 379 of
the I.P.C. and other one under Section 30(a) of the Excise Act.
The learned counsel further submits that allegation is of
recovery of 151.160 Kgs. of Ganja from a truck and Vishal Patel
and Chandra Shekhar Kumar were apprehended, who disclosed
the name of the petitioner and other accused persons having
brought the Ganja, which was loaded on the truck.

The learned counsel for the petitioner submits that



petitioner was not arrested from the spot and as such, nothing was recovered from his conscious possession. It is next submitted that petitioner came to be implicated based on confessional statement of co-accused in police custody, which does not have any evidentiary value. It is further submitted that even the Hon'ble Supreme Court in the case of *Tofan Singh vs. the State of Tamil Nadu reported in (2021)4 SCC 1* has held that a confessional statement recorded under Section 67 of the N.D.P.S. Act will remain inadmissible in trial of an offence under the N.D.P.S. Act.

The learned counsel for the petitioner next submits that petitioner will not abscond rather will cooperate in the investigation and will present himself as and when required by the Investigating Officer of the case for eliciting the truth.

Learned A.P.P. opposes the bail application, but is not in a position to rebut the submission of the learned counsel for the petitioner that petitioner was not apprehended from the spot and his name transpired in the confessional statement of co-accused in police custody.

Considering the submissions made by the learned counsel for the petitioner, the petitioner, above-named, in the event of his arrest or surrender before the learned Court below



within a period of six weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st A.D.J., Motihari, East Champaran in connection with Sugauli P. S. Case No.462 of 2021, subject to the conditions laid down under Section 438(2) of the Cr.P.C. with a condition that one of the bailors of the petitioner shall be his father namely, Saleem Dewan.

The application stands allowed.

However, it is made clear that in the event, if the Investigating Officer files an application before the learned trial Court bringing to its notice that the petitioner, despite giving assurance to this court, is not cooperating in the investigation or is not presenting himself when called for, the learned trial Court shall be at liberty to cancel the bail bonds of the petitioner after recording reasons. Further, in the event, if charge-sheet comes to be filed against the petitioner connecting him with the offence, then the present anticipatory bail order shall loose its effect.

(Satyavrat Verma, J)

vikash/-

U		T	
---	--	---	--

