

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62149 of 2022

Arising Out of PS. Case No.-12 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

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Hareram Mahto @ Hariram Mahto S/o Raso Mahto R/v- Rachiyahi,
Sitarampur, Ward No.- 10, P.S.- Matihani, District- Begusarai, Bihar

... .. Petitioner/s

Versus

The Union of India through the Principal Commissioner of Customs, C.R.
Building, B.C. Patel Path Patna, Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shri Prakash Tiwari, Advocate
For the Opposite Party/s : Mr. Anshuman Singh, Sr.SC, Customs

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

10. 31-07-2023 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of opposite party/ Union of India.

2. The petitioner apprehends his arrest in N.D.P.S.
Case No. 31 of 2022 / Special Case No. 74 of 2022, arising out
of Unit Case No. 12 of 2021-22, registered for the offence under
Sections 20, 29 of the Narcotic Drugs and Psychotropic
Substances Act, 1985 (hereinafter referred to as “NDPS Act”).

3. The prosecution case, in brief, is that on
18.01.2022, specific information was received that some
contraband goods are bring transported through Parcel an SLR
No. 195614 of Train No. 15909 (Awadh Assam Express).
Accordingly, a team rushed at about 15.30 Hrs towards Hajipur
Railway Station where the train was scheduled to arrive at 17.30



Hrs. At about 17.39 Hrs. the said train arrived at Platform no. 3 of Hajipur Railway Station. The Parcel officials opened the seal of the said Parcel van of the said train in presence of RPF officials and the Customs officers. On opening the gate of said Parcel van two wooden/plywood boxes packed in jute bags were found which matched with the intelligence received. The wooden boxes were then opened and it was found to contain small packets covered with brown adhesive tape. On opening the packets, a substance appearing and smelling as “Ganja” was found. Total 39 small packets containing the same substance were recovered and after weighing the same, the total weight was found to be 90 Kg. and it was seized by the custom department. During investigation, it has been found that co-accused Chandan Kumar is the consignor of the seized consignment of Ganja, which was booked in guise of Motor Parts by using a fake invoice and the co-accused has made available his Aadhar Card to Hareram Mahto (petitioner) for booking the consignment of Ganja in lure of money.

4. It is submitted on behalf of petitioner that petitioner is innocent and has been falsely implicated in this case at the instance of co-accused Chandan Kumar, who is on inimical term with the petitioner due to the reason that an F.I.R. under



Sections 376, 34, 120(B), 366(A) of the I.P.C. and Section 4 / 8 of the POCSO Act was lodged by the family member of petitioner against Bhagina of co-accused Chandan Kumar. Petitioner works in private firm at Faridabad since last two years and he has got no concern with the seized Ganja, as the consignor and consignee are one Deepak and co-accused Chandan Kumar respectively, which fact is evident from the documents supplied by Chief Parcel Officer, New Jalpaiguri itself, but the petitioner has been falsely implicated by co-accused Chandan Kumar on account of personal grudge. Petitioner has no criminal antecedent.

5. In this case, counter affidavit has been filed on behalf of Custom department. It has been argued by learned counsel for Union of India, Custom department that Ganja in huge quantity has been recovered i.e. 90 Kg. from Train No. 15909 (Awadh Assam Express) and co-accused Chandan Kumar was arrested, who confessed his guilt in his statement under Section 67 of the NDPS Act of providing his Aadhar Card to his accomplice i.e. petitioner (Hareram Mahto) for booking of alleged Ganja in lure of money. Co-accused Chandan Kumar took Rs. 30,000/- from the petitioner for the said purpose. The Commercial Supervisor, NJP Railway Station has confirmed



that co-accused Chandan Kumar was present at the time of booking of consignment and co-accused Chandan Kumar and this petitioner were present near Railway Station Bhatinda. It is further submitted that this petitioner has repeatedly dishonoured the summons for his statement under Section 67 of the NDPS Act and despite assurance, he never appeared till date, which shows his involvement in this case and financial transaction has been found between petitioner and co-accused Chandan Kumar. On aforesaid ground, it has been requested that the petitioner may not be extended the privilege of anticipatory bail.

6. Taking into consideration the submissions of learned counsel for the parties and materials available on record coupled with the factum of recovery of 90 Kg. Ganja and the conduct of the petitioner, the Court is not inclined to extend him benefit of anticipatory bail and accordingly, the prayer for anticipatory bail of petitioner is rejected.

(Prabhat Kumar Singh, J)

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