

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62394 of 2024

Arising Out of PS. Case No.-6 Year-2017 Thana- N.C.B (GOVERNMENT OFFICIAL)
District- Patna

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Dilip Kumar @ Dilip Sah @ Dilip Saw S/o Hari Sharan Chaudhary R/o
vill - Maujipur, P.S. - Nadi Fatuha, Distt. - Patna

... .. Petitioner

Versus

The Union of India through NCB, Patna Bihar

... .. Opposite Party

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Appearance :

For the Petitioner	:	Mr.P.N. Shahi, Sr. Advocate
		Mr.Ashok Kumar Mishra, Advocate
For the UOI NCB	:	Mr.Ram Anurag Singh, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 13-12-2024 Heard Mr. P.N. Shahi, learned senior counsel

appearing on behalf of the petitioner and Mr. Ram Anurag

Singh, learned C.G.C. appearing for the Narcotic Control

Bureau.

2. Petitioner seeks bail in connection with NCB Case

No. 06 of 2017, Special (NDPS) Case No. 16 of 2019

registered for the offences under Sections 8/2- of the

Narcotics Drugs and Psychotropic Substances Act (in short

the “N.D.P.S. Act”).

3. The accused petitioner is named in the First

Information Report and is in custody since 13.02.2023.



4. Allegation against the petitioner is to engage in illegal business of contraband i.e. Ganja.

5. It is submitted by Mr. P.N. Shahi, learned senior counsel appearing on behalf of the petitioner that except confessional statement of co-accused namely, Jageshwar Prasad, Jairam Rai and Sakaldeep Bhagat as recorded under Section 67 of the N.D.P.S. Act, nothing appears incriminating against this petitioner.

6. It is submitted that in furtherance of said confessional statement, no incriminating materials appears recovered from possession of this petitioner as to connect him *prima-facie* with this case. It is further submitted that even materials available on record failed to suggest involvement of petitioner with alleged recovery of Ganja in view of Section 35 of the N.D.P.S. Act as *prima-facie* no material said to be gathered *qua* culpable mental state of the petitioner during investigation, which is already completed.

7. In this context, it is submitted by Mr. Shahi, that evidentiary value of confessional statement, as recorded under 67 of the N.D.P.S. Act, has already decided by Hon'ble



Supreme Court through **Tofan Singh Vs. State of Tamil Nadu** reported in **(2021) 4 SCC 1**; wherein it has been categorically held that same is of no evidentiary value. It is submitted by Mr. Shahi that petitioner found involved in three criminal cases of similar nature and in those cases also he has been implicated almost in similar way. It is submitted that if the merit of case is otherwise convincing, merely on the basis of criminal antecedent, the privilege of bail to the petitioner could not be denied.

8. In support of aforesaid submission, Mr. Shahi, relied upon the legal report of Hon'ble Apex Court as available through **Prabhakar Tewari Vs. State of Uttar Pradesh** reported in **(2020) 11 SCC 648**.

9. While concluding argument, it is submitted that in want of culpable mental state in view of section 35 of the N.D.P.S. Act, rigorous provisions of Section 37 as available under N.D.P.S. Act, can not be said applicable.

10. Mr. Ram Anurag Singh, learned counsel appearing for the N.C.B., while opposing the prayer of bail of the petitioner, submitted that as per confessional statement



of co-accused persons, this petitioner was found involved in loading of contraband i.e. Ganja and was also one of the intended receiver. It is submitted that C.D.R. (Call Detail Report) suggest that petitioner was under conversation with other co-accused persons, but learned counsel appearing for the N.C.B. could not disputed the factual submission as advanced by Mr. P.N. Shahi, learned senior counsel appearing for the petitioner as discussed above.

11. In view of the aforesaid factual submission and by taking note of the fact as save and except suspicion arising out of statement of co-accused persons as recorded under Section 67 of the N.D.P.S. Act, nothing *prima-facie* incriminating appears against this petitioner, who remains in custody since 13.02.2023, accordingly, above-named petitioner is directed to be released on bail, furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge (NDPS Act), Court No. 1, Patna/concerned court, in connection with NCB Case No. 06 of 2017, Special (NDPS) Case No. 16 of 2019, subject to the



condition as laid down under Section 437 (3) Cr.P.C/Section 480(3) of the Bhartiya Nyaya Suraksha Sanhita (in short “B.N.S.S.”), and further condition that:

- (i) Petitioner shall not involve/indulge in similar nature of case till conclusion of trial;
- (ii) Petitioner must present before learned trial court on each and every date of hearing after framing of charge.
- (iii) Petitioner shall not made any attempt to delay the trial.
- (iv) In case of violation of aforesaid conditions, learned trial court shall be at liberty to cancel the bail bond of the petitioner, if pressed by the State.

(Chandra Shekhar Jha, J)

Rajeev/-

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