

(2020) 06 PAT CK 0122

In the Patna High Court

Case No : Criminal Miscellaneous No. 15701 Of 2020

Chotelal Yadav

APPELLANT

Vs

Union Of India Through NCB, Patna

RESPONDENT

Date of Decision : 15-06-2020

Acts Referred:

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 2, 8, 20, 25, 29, 37

Citation : (2020) 06 PAT CK 0122

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Gajendra Kumar Singh, S.D. Sanjay, Uma Shanker Verma

Final Decision : Dismissed

Judgement

Ahsanuddin Amanullah, J

1. The matter has been heard via video conferencing due to lockdown imposed on account of the COVID-19 pandemic.
2. Heard Mr. Gajendra Kumar Singh, learned counsel for the petitioner and Mr. S D Sanjay, learned Additional Solicitor General (hereinafter referred to as the 'ASG') along with Mr. Uma Shankar Verma, learned senior panel counsel for the Central Government.
3. The petitioner is in custody in connection with NDPS Case No. 18 of 2019 arising out of NCB Case No. 13 of 2019 dated 25.05.2019 instituted under Sections 8, 2, 20, 25 and 29 of The Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the 'Act').
4. At the very outset, Mr. Gajendra Kumar Singh, learned counsel for the petitioner, submitted that he would be adopting the arguments advanced on behalf of Sharma Yadav, an identically situated co-accused, whose prayer for bail has been rejected on 08.06.2020 in Cr. Misc. No. 14276 of 2020.
5. Similarly, Mr. S D Sanjay, learned ASG, admitting that the case of Sharma

Yadav is identical to that of the petitioner, submitted that he would also adopt the arguments advanced by him, as recorded in the order dated 08.06.2020 in Cr. Misc. No. 14276 of 2020.

6. In view thereof, submissions of the respective parties, which have been recorded in the aforesaid case, are being noted to be treated as their arguments in the present case also.

7. The allegation against the petitioner and 12 others is that from the two vehicles on which they were travelling, which were seized by the authorities, a total of 240 Kgs. Ganja in 45 packets was recovered.

8. Learned counsel for the petitioner submitted that as per the allegation, from two vehicles the said ganja was recovered, but it has not been specified as to whether it was from the conscious possession of the petitioner and further as to what amount has been recovered from which vehicle. Learned counsel submitted that the petitioner is in custody since 26.05.2019 having no criminal antecedent. It was further submitted that similarly situated co-accused Iqwal Mukhiya has been granted bail on 26.02.2020 in Cr. Misc. No. 10445 of 2020 whereas Dineshwar Yadav has been granted bail on 05.06.2020 in Cr. Misc. No. 17208 of 2020. Learned counsel submitted that charge has been framed and, thus, the Court had granted them bail in view of there being no scope of tampering with the evidence.

9. Learned ASG submitted that the commercial quantity of ganja is 20 Kgs. and in the present case 240 Kgs. was recovered. It was further submitted that there is no relevance of the authorities having to divulge as to what quantity was recovered from which person for the reason that the vehicles are private and not commercial and, thus, the presumption is that all the caught travelling on such private vehicles were individually and equally liable for the recovery. Learned counsel submitted that framing of charge is not sufficient for release of the petitioner as there is adequate evidence against him and further, it does not preclude the petitioner from coming out from prison and again committing further such crime and also tampering with the evidence. It was further submitted that, if convicted, the petitioner faces 10 years imprisonment which may extend to 20 years, in terms of Section 37 of the Act. It was further submitted that the persons after getting bail do not cooperate in the trial which keeps on lingering for years together and in the meantime they keep indulging in such activities. Learned counsel further submitted that in the case of Iqwal Mukhiya, the Department has taken legal opinion and is likely to move the Hon'ble Supreme Court for cancellation of his bail.

10. Having considered the facts and circumstances the case and submissions of learned counsel for the parties, the Court finding substance in the arguments advanced by learned ASG, is not inclined to enlarge the petitioner on bail.

11. Accordingly, the present application also stands dismissed.