

IN THE COURT OF 1ST DISTRICT AND ADDITIONAL SESSIONS JUDGE

AURANGABAD (BIHAR)

GR NO. 32/2023 and CIS No. 02/2024

Arising out of NCB Case No: 14 of 2023

Bhishma Narayan Tiwary @ Guddu Tiwary

Accused/Petitioner

Versus

State of Bihar

Prosecution

Order with signature of the Court

Dated
31.01.2025

A petition dated 15.01.2025 filed under Section 227 of the Code of Criminal Procedure, 1973 on behalf of the accused in custody **Bhishma Narayan Tiwary @ Guddu Tiwary** is posted today for order.

By way of such petition, the learned counsel for the petitioner has tried to stress upon on the issue that the petitioner is innocent fellow against whom the order of cognizance has been passed in a mechanical way without scrutinizing the facts and materials collected by the Investigating Officer. While there is no iota of the evidence, so the complicity of the crime alleged. Reviewing the any concerned about truck from which the alleged contraband was recovered of the accused/petitioner, it has been contended that he was just only sitting or only traveling in the said truck on the implication of accused on mere suspicion is not correct against the accused. Negating the allegation as such the learned counsel for the accused/petitioner has tried to stress upon that the petitioner being the social worker having no criminal antecedent has been implicated falsely in this case in hand as such there is no material against him to frame charge and has prayed to discharge him from the allegation made against him.

At the other hand, the learned Special Public Prosecutor (NDPS) countering the prayer so made on behalf of the accused/petitioner has tried to dash upon the maintainability of the application. It has been contended that the petitioner was arrested with the co-accused after recovery 544.50 Kgms of Ganja from the truck bearing registration no. JH-09-AD-9287 and the petitioner being the associate of the other accused apprehended is involved in the crime and he has stated that even a slightest suspicion of the commission of offence emerges, the charge may be framed as per the settled law of the land and the petitioner-side lingering the matter by filing such discharge petition since last six months one by one which has belated the trial and hampered the trial as well. He has prayed to dismiss the application as such on the above ground.

Having glimpse over the contents so made on behalf of the parties, it goes to reveal that it is an admitted fact that the petitioner has been found inside the truck sitting from which the contraband of 544.50 Kgms of Ganja were recovered along-with the other accused inside the truck as narrated by the learned Special Public Prosecutor (NDPS) in his counter version. Mere denial of the involvement in the crime at such the state of the cause is nothing but a denial and such denial has not been supported with any sort of evidence so far on behalf of the accused/petitioner. This Court does not find any force in the contention as such of the petitioner-side and the police has collected the evidence enough to frame charge against the accused under the provisions of NDPS Act. As such, the discharge petition under Section 227 of the Code of Criminal Procedure, 1973 is **dismissed** and the accused is directed to hear charge on the next date on

Dictated by

(Pankaj Mishra)

1st District and Additional Sessions Judge,

Aurangabad (Bihar).

Dated: 31.01.2025

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AURANGABAD (BIHAR)**

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