

IN THE COURT OF SESSIONS JUDGE CUM
SPECIAL JUDGE(N.D.P.S.ACT) GAYA

I.A. No-01/2021

N.D.P.S. Case No-21/2020

Gopal Yadav Vs. State of Bihar

O R D E R

23-03-2021 Regular bail petition filed on behalf of petitioner Gopal Yadav through I.A. No-01/21 in the present N.D.P.S. Case No-21/2020 arising out of Barachatty P.S. Case No-190 of 2020 under sections 20/22 of N.D.P.S. Act has been pressed. Petitioner is in custody since 09-01-21.

Case of the prosecution as per written report of the informant , police A.S.I. of Barachatty P.S. is that on 13-04-2020, while he was at the police station , Officer In-Charge informed him that he has received an information that in the khalian of Shiv Nandan Yadav and in the chilly field of Gopal Yadav and Krishana Yadav of Village - Khajurain has kept Doda through concealing under the chilly plants . Therefore, after constituting a police team , he along with others proceeded for Village - Khajurain at 11:40 A.M. and when he reached there , he found chaukidar Chalitar Yadav and

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his son Sakaldeo Kumar already standing , and waiting for their arrival . They carried the police party to the khalian of Shiv Nandan Yadav,where plants of mustard plants had been kept . On account of absence of independent witnesses making the village chaukidar and his son Sakaldeo Kumar as witnesses , when he removed the mustard's plants , about eight plastic bags each containing Doda total measuring 100 kilograms was recovered , which was seized and seizure list was prepared . Subsequently, when the informant went to field of Gopal Yadav , there also , about 100 kilograms of Doda was recovered concealed under mustard's plants . Accordingly, the accused persons were taken into custody and processed according to law.

Learned advocated for petitioner Gopal Yadav has submitted that petitioner has falsely been implicated without any substantial basis against him. The alleged chilly field, from where about 100 kilograms of Doda was alleged to have been recovered , do not belongs to -

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him. Seizure list even do not bear signature of independent witnesses but despite all , the petitioner is languishing in judicial custody since 09-01-21.

The learned Special Public Prosecutor (N.D.P.S.Act) for the State has opposed the prayer for bail and has submitted that case diary has been received and in the case diary, all the witnesses have supported the occurrence and recovery of the alleged 100 kilograms of Doda in different gunny bag.

Heard both the parties and perused the record including the case diary. From perusal of the case diary , it appears that all the witnesses interrogated during investigation are either the members of the raiding party or the village chaukidar and not any independent witness of the village has been interrogated . In para 17 of the case diary , Investigating Officer has mentioned the P.O. claiming to be the field of petitioner Gopal Yadav but have not mentioned the details of land like khata number

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,plot number and area of the land has not been mentioned rather the boundary only , in which it has been mentioned that on the western boundary, there is government land belonging to the forest department . None of the witnesses throughout the case diary except the members of the raiding party , village chaukidar has stated the P.O. land as belonging to Gopal Yadav. The details of the land like khata number , plot number , boundary and name of the land's holder are available on the website of the revenue department of the Government of Bihar claiming any land as belonging to any particular persons without verification of the document is not at all fair . Hence, I.O. must collect the Doda and details of the p.O. land . In every such case before opposing the prayer for bail of the petitioner, at least the regular bail , in which the petitioner's liberty stands curtailed, an investigation should not be done in such a casual and unscientific manner but since the investigation of occurrence is still in progress, I am not inclined to enlarge the

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petitioner on bail at this stage in such serious cases relating to an offence against the society at large and danger to human life as well as the economy of Nation .

Hence, the prayer for bail to the petitioner is rejected.

(Dictated)

Sd/-

Sessions Judge Cum Special Judge,
(N.D.P.S.Act), GAYA