

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32073 of 2018

Arising Out of PS.Case No. -4 Year- 2017 Thana –AADAPUR
District- EAST CHAMPARAN(MOTIHARI)

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Dhiraj Kumar @ Dhiraj Kumar Sah, Son of Rajendra Pd. Sah, Resident of
Village- Kalaiya, P.S.- Kalaiya, District- Bara Nepal

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate
Mr. Pravin Kumar, Advocate

For the Opposite Party/s : Mr. Arun Kumar, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 29-06-2018 Heard learned counsel for the petitioner and the

learned counsel appearing on behalf of the State.

The petitioner is in custody since 07.01.2017 in
connection with N.D.P.S. Case No.03 of 2017 arising out of
Adapur (Nakardeyi) P.S. Case No.04 of 2017 registered for the
offence under Sections 20, 22, 23 and 24 of the N.D.P.S. Act
(hereinafter referred to as “the Act”).

Learned counsel appearing on behalf of the
petitioner submits that the recovery of 70 Grams of heroin
(brown sugar) has been alleged by the informant in the F.I.R.,
which is said to have been recovered from the physical
possession of the petitioner. Learned counsel, however, points



out that in case of such search of the person of any accused person, the mandatory requirement under Section 50 of the Act has to be followed before any such person can be made an accused. It is further submitted that neither has this mandatory provision been followed nor has any provision of Section 42 of the Act has been considered by the raiding party which had conducted the raid and taken the petitioner into custody. Learned counsel further submits that in any view of the matter, the alleged recoveries are of 70 Grams, which is much below the commercial quantity of 250 Grams, which may be the point for consideration of the bail application. Learned counsel also submits that considering the period of custody of more than a year, the petitioner's prayer for bail may be considered.

Having considered the facts and circumstances of the case and taking into consideration the violation of the mandatory provisions, as has been pointed out by the learned counsel for the petitioner, let the petitioner, above named, be released on bail on his furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge cum Special Judge, N.D.P.S. Act, East Champaran, Motihari, in connection with N.D.P.S. Case No.03 of 2017 arising out of Adapur (Nakardeyi)



P.S. Case No.04 of 2017, subject to the condition that both the bailors of the petitioner shall be the Indian citizens and also close relatives. The petitioner is also directed to report before the concerned Police Station every fortnight so as to prove his bona fides. It is further directed that the petitioner shall also abide by the following conditions :

(1) The petitioner shall not indulge himself in any similar offence till conclusion of the trial.

(2) The petitioner shall remain physically present in court on each and every date during trial and in the event of his failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.

(3)The petitioner shall co-operate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(Anjana Mishra, J)

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