

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.16176 of 2019**

Arising Out of PS. Case No.-1027 Year-2018 Thana- AGAMKUAN District- Patna

Sujay Kumar Son of Sri Arun Kumar Singh Resident of Village - Dariyapur,  
P.S.- Masaurih, District- Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Vijay Kumar Sinha

For the Opposite Party/s : Mr.Lakshmi Kant Sharma

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**  
**ORAL ORDER**

2      15-03-2019      Heard learned counsel for the petitioner and learned  
APP for the State.

The petitioner is languishing in custody since 18.12.2018 in a case registered for the offences punishable under Sections 21,27,29 of the NDPS Act.

The prosecution case got initiated on the basis of written report dated 16.12.2018 submitted by A.S.I. Vijay Kumar Singh to the Station House Officer, Agamkuan Police Station is to the effect that on the same day, at 3.00 P.M., during patrolling, a secret information was received that three persons are consuming 'Smack', whereupon, a raid was laid and three persons, namely Ansuraj Yadav, Ranveer Kumar and Raubin Kumar were apprehended. On frisking, from the possession of all the three apprehended accused persons, one sachet each 'Smack' was recovered. But it appears that the



name of the petitioner was included in the forwarding letter. The seizure list suggests that from the possession of the petitioner, two sachet of Smack were recovered.

It is submitted by learned counsel for the petitioner that only on the basis of suspicion, the accusation has been levelled against the petitioner. It is further submitted that the petitioner was not apprehended from the spot, but the manner in which he was arrested, is not clear for the narrative of the FIR. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that the recovery has been made from the conscious physical possession of the petitioner and the petitioner is named in the FIR.

It appears that the seizure list suggests the solid state of affairs as to how the offences under the stringent Act like the the NDPS Act are being registered and the accused are being forwarded without weighing the seized contraband when it is absolutely a weight/quantity based offence. Since such issue has already been referred to the Director General of Police, Bihar, hence there is no need to refer the present one.

Considering the fact that the offences under the



NDPS Act is weight/quantity based, but no weight of the seized contraband has been mentioned, coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on bail, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge/Special Judge, Patna in connection with Special Case No. 144 of 2018 (NDPS) Case, arising out of Agamkuan P.S. Case No.1027 of 2018.

**(Dinesh Kumar Singh, J)**

Ashwini/-

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