

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37069 of 2019

Arising Out of PS. Case No.-47 Year-2019 Thana- KISHANGANJ District- Kishanganj

NEHAL HUSSAIN @ IRSHADUL HASAN @ NEHAL HASAN, aged about 27 years, Male, Son of Azharul Hassan, Resident of Village - Line Masjid, P.S. and District – Kishanganj.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr.Ram Prawesh Kumar, Advocate.
For the Opposite Party : Mr.Anuj Kumar Shrivastava, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 26-06-2019 Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner is languishing in custody since 29.01.2019 in a case for the offence registered under Sections 27 and 29 of N.D.P.S. Act.

The prosecution story, in brief, is that on 27.01.2019 at about 11.30 hours, the informant got secret information that near Bus Stand some boys who used to sell Smack are standing near Bus Stand Over bridge. On this information, informant proceeded towards the spot and saw that one person trying to flee away. On chase, he was caught hold by the police and disclosed his name as Md. Imtiyaz. On search of his pocket, two Puriyas of Smack total weighing 1 Gram 400 mg was found. It



is further alleged that he told that he used to consume the Smack alongwith his friends namely, Alam, Murshid and Nehal Hussain respectively. Accordingly, seizure list was prepared and the accused was arrested.

It has been submitted by learned counsel for the petitioner that the petitioner has got no criminal antecedent. Charge sheet has been submitted in the present case. There is no allegation of tampering with the witnesses alleged against the petitioner. 1 Gram 400 mg of Smack is alleged to have been recovered from co-accused Md. Imtiyaz. The name of the petitioner has come in the present case on the basis of confessional statement of co-accused. There is no recovery of any contraband from conscious possession of the petitioner. The said recovered Smack is below the commercial quantity. Hence, Section 37 of the N.D.P.S. Act is not applicable in the present case. There is no compliance of Sections 42 and 50 of N.D.P.S. Act.

On behalf of the learned counsel for the State, it has been submitted that the petitioner is named in the F.I.R.

Considering the aforesaid facts and circumstances, let the petitioner above named, be released on bail on furnishing bail bonds 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, Kishanganj, in connection with Kishanganj P.S. Case No. 47 of 2019 giving rise to Special Case No. 3/2019.

(Sudhir Singh, J)

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