

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19594 of 2020

Arising Out of PS. Case No.-23 Year-2020 Thana- BUDDHACOLONY District- Patna

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Harsh Kumar Son of Ramjee Prasad @ Ramjee Prasad Rai Resident of
Village - South Mandiri, P.S.- Buddha Colony, Distt.- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Union Of India

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Kulanand Jha
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 25-06-2020 The matter has been taken up through virtual Court
proceeding.

Heard learned counsel for the petitioner, learned
APP for the State and learned counsel appearing for Union of
India.

Since the physical court proceeding is non-functional
the matter is listed with defects.

Learned counsel for the petitioner undertakes to
remove the defects within three weeks of resumption of physical
court proceeding. In the eventuality of non-removal of defects
the office will place the matter before the bench.

The petitioner is languishing in custody since
22.01.2020 in a case registered for the offences punishable



under Sections 21(a)/21(b)/25/29 of NDPS Act, hence, the prayer for bail has been made through the present application.

The prosecution case, as per the self statement of Ravi Shankar Singh, S.I. cum- S.H.O., Budha Colony P.S., Camp South Mandiri recorded on 21.01.2020 at 7.00 P.M., is to the effect that on the same day at 5.40 P.M. during patrolling, a confidential information was received that Harsh Kumar, the petitioner and his friends, co-accused Rocky Yadav, Rahul Kumar and Ayush Kumar were selling brown sugar, consequently, a raid was laid in the house of the petitioner and from the pocket of co-accused Rocky Yadav, 20 sachets of smack weighing 11 gms and one mobile phone were recovered and from the possession of the petitioner, one mobile phone was recovered, leading to registration of the present case.

It is submitted by learned counsel for the petitioner that there is no recovery of contraband from the possession of the petitioner and petitioner had no knowledge about the smack being carried by co-accused Rocky Yadav. Moreover, co-accused Ayush Kumar, who was also apprehended from the place of seizure, has been granted bail by Co-ordinate bench of this Court vide order dated 19.05.2020 passed in Cr. Misc. No. 19100 of 2020. The investigation has already been concluded



and petitioner is accused in one another case.

Learned APP for the State submits that from the house of the petitioner, co-accused Rocky Yadav was apprehended and from his possession, recovery of brown sugar has been made.

Considering the fact that the recovery from the possession of co-accused Rocky Yadav is not in dispute, this is also not in dispute that the recovery is between small and commercial quantity but there is no recovery from the possession of the petitioner, other similarly situated co-accused has been granted bail and investigation being concluded, let the petitioner above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned Special Judge, N.D.P.S., Patna in connection with Special Case No. 20 of 2020, arising out of Budha Colony P.S. Case No. 23 of 2020.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond upon furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned



through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned Special Judge, N.D.P.S., Patna in connection with Special Case No. 20 of 2020, arising out of Budha Colony P.S. Case No. 23 of 2020.

The learned Court below is at liberty to further extend the period of provisional bail if the court proceeding in physical mode will not resume in next three months.

Accordingly, the application stands disposed of.

(Dinesh Kumar Singh, J)

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