

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28855 of 2020

Arising Out of PS. Case No.-955 Year-2019 Thana- PHULWARISHARIF District- Patna

MD. NAUSHAD @ MR. NAUSHAD @ MOTARO Son of Md. Nimam
Resident of Sangi Masjid, Lal Mian Ki Dargah, Police Station-
Phulwarisharif, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raj Shekhar, Advocate

For the Opposite Party/s : Mr. Ashok Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 16-12-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel appearing for the petitioner and Shri Ashok Kumar, learned A.P.P. for the State.

The petitioner seeks regular bail in connection with Phulwarisharif P.S. Case No. 955 of 2019, Special Case No. 141 of 2019 for the offence punishable under Sections 20 and 22 of the NDPS Act.

The allegation is regarding recovery of 15 sachets from two match box containing smack from the petitioner when he was apprehended by the police.



The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and is languishing in custody since 21.10.2019. It is further submitted that small quantity of smack has been recovered from the petitioner and in fact the materials on record as also the seizure list would show that the exact quantity of smack recovered from the petitioner has not been mentioned anywhere. It is also submitted that the seizure list is void inasmuch as there is no compliance of Section 100 Cr.P.C.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials available on record as also in the case diary, this Court finds that there is gross laches on the part of the informant who is a police official inasmuch as he has not mentioned the quantity of smack recovered from the two mach boxes and moreover the same has also not been sent for forensic examination so as to ascertain as to whether it is smack or something else, hence this Court is handicapped and has got no option but to give benefit of doubt to the petitioner herein, thus I deem it fit and proper to direct for



release of the petitioner on regular bail.

Accordingly, the petitioner, above named, is directed to 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 XVIth Additional Sessions Judge, Patna in connection with Special Case No. 141 of 2019 corresponding to Phulwarisharif P.S. Case No. 955 of 2019.

(Mohit Kumar Shah, J)

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