

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.8785 of 2021**

Arising Out of PS. Case No.-53 Year-2020 Thana- PURNEA SADAR District- Purnia

Shaufuddin @ Saifuddin, Son of Nurul Islam @ Nur Islam, Resident of
Village - Makhmalpur, P.S. - Mufassil, District - Sahebganj, Jharkhand

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Surendra Kumar Singh, Advocate

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

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

5 24-08-2021 Learned counsel for the petitioner undertakes to
remove all the defects as pointed out by office within four weeks
after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr.
Parmanand Kumar, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in
connection with Special (N.D.P.S.) Case No. 02 of 2020 arising
out of Sadar P.S. Case No. 53 of 2020 registered for the offence
punishable under Section 8/21/22 of the Narcotic Drugs and
Psychotropic Substances Act (in short 'N.D.P.S. Act').

Learned counsel for the petitioner submits that as per
the prosecution story 190 gms. of brown sugar has been allegedly
recovered from possession of the petitioner.

Learned counsel submits that in this case there is a gross

violation of the statutory safeguards provided to the accused under the provisions of the N.D.P.S. Act. The mandatory provisions such as Sections 39, 41, 42 and 50 of the Act of 1985 have not been followed. The alleged quantity of brown sugar is less than the commercial quantity and the case has been registered under Section 18/21 and 22 of the N.D.P.S. Act, therefore, the rigours of Section 37 of the N.D.P.S. Act 1985 are not attracted in this case. The petitioner has otherwise no criminal antecedent and has remained in custody in connection with this case since 04.02.2020.

Mr. Parmanand Kumar, learned A.P.P. for the State has though opposed the prayer for regular bail of the petitioner but it is not disputed that the quantity allegedly seized from possession of the petitioner is less than commercial quantity.

Considering the facts and circumstances of the case wherein from possession of this petitioner allegedly less than commercial quantity of narcotic substance has been recovered and in the impugned order also the learned Sessions Judge has recorded that the recovered brown sugar comes between small and commercial quantity, on finding that the rigours of Section 37 of the N.D.P.S. Act would not be attracted in the present case and that the petitioner has remained in jail for more than one and half year, investigation against him is complete but the trial is not likely to take place in near future, this Court directs release of the petitioner

above named be released on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned District Judge-cum-Special Judge, NDPS, Purnea in connection with Special N.D.P.S. Special Case No. 02 of 2020 arising out of Sadar P.S. Case No. 53 of 2020, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that one of the bailors would be a resident of the State of Bihar having sufficient means.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

vats/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.