

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3168 of 2022

Arising Out of PS. Case No.-283 Year-2021 Thana- SHASTRINAGAR District- Patna

Rahul Kumar @ Vikash Kumar, Son of Binod Kumar @ Binod Singh, R/O
Village- Durga Ashram Gali, P.S.- Shastri Nagar, District- Patna, Permanent
R/O Of Village- Dumri, P.S.- Punpun, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vijay Kumar Sinha, Advocate
For the Opposite Party/s : Mr.Upendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 01-11-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with Special Case No. 76 of 2021 arising out of
Shastri Nagar P.S. Case No. 283 of 2021 registered for the
offences punishable under Sections 20(b)(ii)(a), 21(a) and 22(a)
of the N.D.P.S. Act.

As per prosecution case, police received
information about selling of smack and this petitioner was
apprehended and from his possession 51 sachet of smack was
recovered along with mobile phone.

The learned counsel for the petitioner submits that the



petitioner is innocent and has been falsely implicated in this case. The petitioner was not apprehended from the spot and nothing incriminating has been recovered from his possession. Mandatory provisions of Section 50 of the N.D.P.S. Act was not followed though the police was having prior information. Learned counsel further submits that the weight of the seized contraband was not given in the FIR or seizure list. During investigation it came regarding weight of the each sachet that each sachet contained one gram of smack and in this way the total would come to 51 grams which is below the commercial quantity and above the small quantity. The petitioner is in custody since 24.07.2021 and charge-sheet has been submitted against him. The petitioner is having clean antecedent.

Learned APP opposes the prayer for bail submitting that the petitioner is a seller of smack and the quantity of contraband is more than the small quantity.

Perused the records.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the period of custody of the petitioner and submission of charge sheet against him, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty



thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-XVI-cum-Special Judge NDPS, Patna in connection with Special Case No. 76 of 2021 arising out of Shastri Nagar P.S. Case No. 283 of 2021, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) The bail bond of the petitioner will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be close relative of the petitioner.
- (iii) The petitioner will remain present on each and every date fixed by the court below.
- (iv) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

balmukund/-

U		T	
---	--	---	--

