

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7460 of 2022

Arising Out of PS. Case No.-12 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

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SUNNY KUMAR S/O SUDHESHWAR PRASAD @ SIDHESHWAR
PRASAD R/O POSTAL PARK BUDH MARG, NEW GALI, IA VERMA
PLACE MARKET, P.S.- KANKARBAGH, DISTRICT- PATNA

... .. Petitioner/s

Versus

THE UNION OF INDIA THROUGH N.C.B. ZONAL UNIT, PATNA BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 10914 of 2022

Arising Out of PS. Case No.-12 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

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ROHIT KUMAR Son of Lalu Ram Resident of R.M.S.- Colony, Ashok
Nagar, Near Durga Mandir, P.S.- Kankarbagh, District- Patna, Bihar

... .. Petitioner/s

Versus

THE UNION OF INDIA THROUGH N.C.B. Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 7460 of 2022)

For the Petitioner/s : Mr. Ghanshyam Tiwary

For the Opposite Party/s : Mr. K.N. Singh(A.S.G.)

(In CRIMINAL MISCELLANEOUS No. 10914 of 2022)

For the Petitioner/s : Mr. Ajay Kumar Jha

For the Opposite Party/s : Mr. Lalan Kumar

For the Union of India : Ms. Shail Kumari (C.G.C.)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

10 21-12-2022 Heard learned counsel for the petitioners and

learned APP for the State.

The petitioners seek bail in connection with Special

Case No. 53 of 2021, arising out of F. No.-



NCB/PZU.V/12/2021 , registered for the offences punishable under Section 8(c) read with Sections 21(c), 25 and 29 of the N.D.P.S. Act.

The prosecution case as emerging from the FIR is that 710 gms of Morphine, one country made pistol, one country made Katta, four live cartridges and other incriminating articles have been recovered from rented flat of one namely, Sunny Kumar.

Ld. counsel for the petitioner, namely, Sunny Kumar submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that as per the allegation, he was tenant of the house wherefrom the contraband was recovered but there is no documentary proof in support of such tenancy in favour of the accused. He also submits that the house owner has not been implicated as an accused in this case. He also submits that local Police, who was involved in the raid, was also not made witness in this case.

Ld. counsel for the petitioner, namely, Rohit Kumar submits that the petitioner is innocent and has falsely been



implicated in this case. He further submits that his name has not transpired in the inforamatory complaint nor was he arrested on the spot and he was arrested after five months and as per the case of the prosecution there is confessional statement of accused under Section 67 of NDPS Act and his name has transpired in the confessional statement of co-accused, namely, Sunny Kumar and others and nothing has been recovered from the possession of the petitioner.

The petitioners have been languishing in jail since 04.06.2021 and 09.11.2021 respectively.

It is also stated in paragraph no. 2 of the petition that the petitioners have never moved before this Court for grant of anticipatory bail or regular bail.

It has further been stated in paragraph no. 3 that the petitioner, namely, Sunny Kumar has earlier been made accused in one more case, whereas the petitioner, namely, Rohit Kumar has no criminal antecedents.

However, Ld. counsel for Union of India vehemently opposes the prayer of the petitioners for bail. In regard to the accused-petitioner, namely, Sunny Kumar, he



submits that it is this accused who is the main king-pin of the whole illegal trade of contraband and on the information that this accused along co-accused Mithilesh Kumar and others were involved in selling contraband, a raid was made and he was arrested in his rented house and house owner has been made witness. He further submits that not only the house owner but even the neighboring flat owners were also made witnesses in this case. The accused also confessed his guilt under Section 67 of the NDPS Act.

In regard to the petitioner, namely, Rohit Kumar, Ld. Counsel for the Union of India submits that there is confessional statement of this accused under Section 67 in which he has confessed the alleged offence as made against him and he further submits that the main accused, namely, Sunny Kumar, who was arrested on the spot and from whose flat the contraband was recovered has stated that the present accused-petitioner was also an associate in selling the contraband. He further submits that similarly situated Rahul Kumar has been denied bail by the Co-ordinate Bench of this Court.



Considering the aforesaid facts and circumstances,
I am not persuaded to enlarge the petitioners on bail at this
stage.

Accordingly, the bail application is rejected.

(Jitendra Kumar, J)

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