

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9622 of 2022

Arising Out of PS. Case No.-895 Year-2021 Thana- PHULWARISHARIF District- Patna

KUSUM DEVI @ PINKI DEVI @ KUSHUM DEVI W/O SANJEEVAN
MAHTO @ SURESH MAHTO Resident of Tamtam Paraw, Hanuman
Mandir, P.S.- Phulwari Sharif, District- Patna

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Adv.
Mrs.Meena Singh, Adv.
For the Opposite Party/s : Mr.Rajendra Nath Jha, APP

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 05-07-2022 Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The petitioner seeks bail in connection with
Special Case No. 156 of 2021 arising out of Phulwari Sharif P.S.
Case No. 895 of 2021 registered for the offences punishable
under Sections 21/21(b)/22/27 of the N.D.P.S. Act.

As per prosecution case, the informant got secret
information that a women was selling brown sugar near Bajrang
Bali Mandir, Tamtam Parao, Phulwari Sharif. After that the
informant alongwith police official reached there and seeing the
police team the said women tried to flee away but she was



apprehended by the police. On search 20 puriya of brown sugar was recovered from her possession.

Learned counsel for the petitioner submits that petitioner is in custody since 29.10.2021 and bears no criminal antecedent. He further submits that as per FIR, alleged recovered brown sugar was not measured and the petitioner allegedly said that about 1 gram brown sugar was kept in each puriya and without weighing the recovered article the present FIR was lodged. Petitioner is quite innocent and she has falsely been implicated in the present case. As a matter of fact, nothing was recovered from conscious possession of the petitioner. He further submits that alleged recovery was admittedly not weighed but ascertained to be 20 grams of brown sugar which is more than small quantity and much less than commercial quantity. He further submits that seizure list witnesses are police officials who are members of raiding party. Mandatory provision of Section 50 of the NDPS Act has not been followed.

The learned A.P.P. for the State opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, petitioner being lady, period of custody, nature of allegation, keeping in view clean antecedent of petitioner and



also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-XVII, Patna in connection with Special Case No. 156 of 2021 arising out of Phulwari Sharif P.S. Case No. 895 of 2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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