

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10310 of 2022**

Arising Out of PS. Case No.-547 Year-2021 Thana- GOPALGANJ TOWN District-
Gopalganj

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ABDUL RAHMAN @ NEZAM Son of Late Md. Hanif Resident of Village-
Tirbirwa (On the road going to Sahdelepur), P.S.- Gopalganj Town, District-
Gopalganj, Actually resident at - Sareya Ward No. 2 (Nahar Par), P.S.-
Gopalganj Town, District- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Pandey No.5

For the Opposite Party/s : Mr.Kumar Veerendra Narayan

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH

ORAL ORDER

4 06-09-2022 The learned counsel for the petitioner is directed to
remove all the defects pointed out by the Stamp Reporter within one
month.

Heard learned counsel for the petitioner and the State.

Petitioner seeks regular bail in Trial no. 42/2021 arising
out of Gopalganj Town P.S. Case no. 547/2021 registered for the
offences punishable under sections 413, 414/34 of the Indian Penal
Code, and sections 8(c), 20(a), 22(b) & (c) of the NDPS Act.

As per prosecution, on the alleged date and time of the
occurrence, police got information about heavy deal in respect of
narcotic material was to be made in the house of this petitioner and
thereafter the police party raided the house of the petitioner and he
was apprehended by the police and two co-accused persons managed
to escape. On search 22.03 gram Smack like substance and 11 gram



Charas like substance were recovered from the person of this petitioner and thereafter, in following with disclosure statement made by the petitioner a Tata Sumo vehicle parked near the door of the petitioner's house was searched and 825 gram Heroin like substance was recovered from the said vehicle.

The main submissions advanced by Sri Sanjay Kumar Pandey No.5, the learned counsel appearing for the petitioner are that there is no independent witness to support the recovery of alleged contraband and during course of investigation most of the witnesses who supported the prosecution's allegations are official witnesses, there is serious contradiction in respect of the place of alleged recovery as in the seizure list the place of recovery has been shown as village Tirbirwa on the road going to Sahdulepur but as per the FIR recovery of contraband was made near the door of the petitioner's house. Hence, there is serious contradiction in respect of place of recovery which makes the prosecution's case highly suspicious and the alleged recovered contraband which are stated to have been recovered from the person of the petitioner comes under the purview of less than commercial quantity. Further submission is that petitioner has been remanded in this case from Gopalganj Town PS Case No. 43/2020 registered under various sections of NDPS Act.

Sri Kumar Veerendra Narayan, learned APP appearing for the State has opposed the prayer for bail.

Heard both the sides and perused FIR as well as case



diary of this case. Present case relates to the recovery of different narcotic materials and one of the seized contraband comes under the purview of commercial quantity and the recoveries were made from the person of this petitioner and from a vehicle which was parked at the gate of the house of the petitioner and allegedly 825 gram suspected to be Heroin recovered from a vehicle which was suspected to be a stolen vehicle.

Considering the nature of the allegation, this Court is not inclined to grant bail to the petitioner and accordingly his prayer for bail stands rejected.

The trial court is directed to expedite the trial of the petitioner and take steps to conclude the same as early as possible. If the trial of the petitioner is not concluded in the next one year, the petitioner may renew his prayer for bail.

(Shailendra Singh, J)

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