

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11891 of 2022**

Arising Out of PS. Case No.-892 Year-2021 Thana- AHYAPUR District- Muzaffarpur

OM KUMAR PASWAN Son of Jagdev Paswan Resident of Village - Kolhua
Paqigambarpur, P.s.- Ahiyapur, Distt.- Muzaffarpur. (Bihar)

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arun Kumar

For the Opposite Party/s : Mr.Jitendra Kumar Singh

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER**

3 16-08-2022 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
Ahiyapur P.S. Case No. 892 of 2021 (N.D.P.S. Case No. 16 of
2022) registered for the offences punishable under Sections
8(C), 21(b) of the N.D.P.S. Act.

As per prosecution case, there is alleged recovery
of 14 gram smack from counter of tent house of the petitioner.

Learned counsel for the petitioner submits that
petitioner is in custody since 19.12.2021. Petitioner bears no
criminal antecedent. Charge sheet has already been submitted in
the case and there is no likelihood of tampering with the



prosecution evidence. Learned counsel further submits that nothing has been recovered from the counter of the tent-house of the petitioner, and it is plantation of the police at the instance of the enemy of the petitioner. There is no report that the alleged articles recovered from a bag wrapped in white paper was smack or not and there is no compliance of Section 50 of the N.D.P.S. Act. Learned counsel further submits that the alleged recovery from the possession of petitioner is of 14 grams which comes in some excess of the small quantity and less than commercial quantity.

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

Considering the facts and circumstances of the case as well as period of custody, nature of allegation, charge-sheet has already been submitted and there is no likelihood of tampering with the prosecution evidence, keeping in view clean antecedent of the 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 Sessions Judge-cum-Special Judge, NDPS Act, Muzaffarpur in connection with



Ahiyapur P.S. Case No. 892 of 2021 (N.D.P.S. Case No. 16 of 2022), 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 without appropriate permission 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.

(iv) If the petitioner is found involved in similar nature of offences in future, the learned trial court shall be at liberty to cancel his bail bond.

(Alok Kumar Pandey, J)

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