

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16027 of 2022

Arising Out of PS. Case No.-397 Year-2021 Thana- PATRAKARNAGAR District- Patna

Chandan Kumar, Son of Kamlesh Prasad, Resident of Village - Gandhi nagar,
Kanti Factory Road, Kankarbagh, P.s.- Patrakar Nagar, Distt. Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Mira Kumari, Advocate

For the Opposite Party/s : Mr.Jagdhar Prasad, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 03-08-2022 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 from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Special Case No. 83 of 2021 arising out of Patrakar Nagar P.S. Case No. 397 of 2021 registered for the alleged offences under Sections 22(b) and 27-A of the Narcotic Drugs and Psychotropic Substances Act.

As per prosecution case, from the possession of this petitioner, 10 grams of brown sugar (heroin) was recovered.

The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this



case as no recovery has been made from his conscious possession. There is clear violation of mandatory provision of Section 50 of the NDPS Act. The petitioner was not apprised about his right to be searched before the Gazetted Officer or the Magistrate. The seizure list carries the police station case number at the top and this shows the seizure list was not prepared at the place of occurrence rather the seizure list was prepared at the police station. The charge-sheet has been submitted in this case without any chemical examination report of the seized substance and so there is no evidence on record to show that the seized substance is brown sugar. No case under Section 22(b) or Section 27A of the NDPS is made out against the petitioner. The petitioner is in custody since 27.07.2021.

Learned APP opposes the prayer for bail submitting that more than small quantity of heroin has been recovered from this petitioner and he has been doing the business of illicit trade of this brown sugar along with co-accused.

Having regard to the fact that the recovery is said to be made from the possession of this petitioner, I am not inclined to grant bail to the petitioner. Hence, the prayer for bail is rejected.

However, the trial court is directed to expedite the



trial and conclude the same preferably within a period of six months.

If the trial is not concluded within a period of six months then the petitioner may renew his prayer for bail, if so advised.

(Arun Kumar Jha, J)

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