

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28159 of 2021**

Arising Out of PS. Case No.-336 Year-2018 Thana- ADAPUR District- East Champaran

SHIVLAL KANU S/O PARYAG SAH RESIDENT OF VILLAGE
BANJARIYA, P.S-KALEYA, DISTRICT-BARA (NEPAL).

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhishek Kumar

For the Opposite Party/s : Mr. Anand Mohan Prasad Mehta

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER**

3 15-02-2022 Heard the parties through virtual court proceeding.

Petitioner renews his prayer for regular bail in connection with N.D.P.S. Case No. 73 of 2018 arising out of Adapur P.S. Case No. 336 of 2018 registered for the offence under Sections 8 (c) / 21 (b) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

Earlier, bail application of the petitioner was rejected by this court in Cr. Misc. No. 14954 of 2019.

The allegation against the petitioner is that 15 grams of brown sugar has been recovered from his possession.

Learned counsel for the petitioner submits that petitioner is in custody for more than 3 years i.e. since 16 / 11 / 2018 and the contraband which has been recovered from his possession is less than commercial quantity inasmuch as



commercial quantity of brown sugar is 250 grams. He further submits that petitioner has got no criminal antecedent and there is no likelihood that the petitioner will commit the same offence after release on bail and he will abscond and / or tamper with the evidence.

This court vide its order dated 6 / 12 / 2021 has called for a report from the learned trial court regarding the stage of the trial and in pursuance thereof a report has been furnished by the learned Addl. District & Sessions Judge- II cum- Special Judge (NDPS), East Champaran, Motihari and from perusal of the same it appears that out of eight (08) charge sheet witnesses, four (04) witnesses have been examined and cross- examined and summons for appearance of other prosecution witnesses were issued on 20 / 06 / 2019 and 15 / 12 / 2021 but the remaining prosecution witnesses have not been examined. Learned counsel also submits that mandatory provision prescribed under Section 50 of the N.D.P.S. Act for search and seizure has not been complied in the present case.

Regard being had to the submissions made by the parties and taking into consideration the slow progress of the trial, the fact that this is 2nd attempt for bail on behalf of the petitioner, the period of custody is for more than 03 years, the



brown sugar recovered from the possession of the petitioner is less than the commercial quantity and the petitioner has got no criminal antecedent, I am inclined to grant regular bail to the petitioner.

Accordingly, let the petitioner, above named, be released on regular bail on furnishing bail bond of Rs. 25000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge cum Special Judge, East Champaran, Motihari in connection with N.D.P.S. Case No. 73 of 2018 arising out of Adapur P.S. Case No. 336 of 2018 on the following conditions:-

(i) that one of the bailors shall be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor shall also undertake to inform the court if there is any change in the address of the petitioner.

(ii) that the petitioner shall be well represented on each and every date and if he fails to do so on two consecutive dates, his bail bond shall liable to be cancelled.

(Anil Kumar Sinha, J)

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