

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20822 of 2022

Arising Out of PS. Case No.-150 Year-2021 Thana- SIWAIPATTI District- Muzaffarpur

Rakesh Kumar Son of Lal Babu Prasad Resident of Village - Kashi Pakri,
P.S.- Rajepur, Distt.- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravi Ranjan, Adv

For the Opposite Party/s : Mr. Mithlesh Kumar Khare, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 27-09-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. N. K. Agrawal, learned senior counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Siwaipatti P. S. Case No. 150 of 2021 (NDPS Case No. 19 of 2022) registered for the offences punishable under Sections 8, 20 and 22 of the Narcotic Drugs and Psychotropic Substances Act.

As per the prosecution case, it is alleged that while the police party was on patrolling duty, they intercepted two



persons, who were coming on a motorcycle, however, on noticing the police force, the pillion rider fled away and co-accused co-accused Mohan Kumar was apprehended. On search, 1 Kg. Charas like substance was recovered. It is also alleged that the apprehended person disclosed the name of pillion rider as Aditya Abhinav and also disclosed the name of his other associates including the petitioner.

Learned senior counsel appearing on behalf of the petitioner submitted that the name of the petitioner has been disclosed by the apprehended person as one of the associates, however, nothing incriminating has been recovered from his person or possession. It is further submitted that the alleged recovery has been made from possession of co-accused Mohan Kumar and so far this petitioner is concerned, save and except the disclosure made by the apprehended person, there is no other material showing the complicity of the petitioner in the present crime. It is next submitted that there are various other infirmities in the preparation of seizure list apart from the fact that the charge sheet has been submitted without obtaining the F.S.L. report. It is last submitted that only because of his past criminal antecedent, his name has been implicated in this case.

On the other hand, learned APP for the State



opposes the bail application.

Regard being had to the submissions made on behalf of the parties and taking into account the fact that the petitioner was neither apprehended at the spot nor any incriminating material has been recovered from his conscious or constructive possession and save and except the disclosure made by the apprehended person, there is no other material and he is in custody since 01.02.2022 , let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District Judge-1st, Muzaffarpur in connection with Siwaipatti P. S. Case No. 150 of 2021 (NDPS Case No. 19 of 2022), subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.



(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The Court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancelling of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Harish Kumar, J)

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