

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30961 of 2021**

Arising Out of PS. Case No.-708 Year-2020 Thana- SARAIYA District- Muzaffarpur

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Rohit Kumar Son of Virendra Baitha Village Jujharpur Ps Saraiya District
Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Shamimul Hoda, Advocate
For the Opposite Party/s : Ms. Indihar Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 01-08-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Saraiya
P.S. Case No. 708 of 2020 registered for the offence under
Sections 414 and 34 of the Indian Penal Code, Sections 25(1-
b)a, 26 and 35 of the Arms Act and Sections 20 and 22 of the
N.D.P.S.

The accused/petitioner is named in the F.I.R. and is in
custody since 25.10.2020.



The allegation against the petitioner is to have in possession of one country made pistol, alongwith one empty cartridge and also with 500 grams of contraband i.e., opium.

Learned counsel appearing on behalf of the petitioner submitted that petitioner has been falsely implicated in this case. It is submitted that compliance of Section 50 of the N.D.P.S. Act, as regard to search upon the petitioner, was not complied with. It is also submitted that the quantity of opium, alleged to be recovered from the possession of the petitioner, was sent to FSL, for its report, is still awaited and chargesheet against the petitioner was submitted without obtaining the said FSL report. It is further submitted that the quantity recovered is less than commercial quantity, as such, provision of Section 37 of the N.D.P.S. Act is not attracted in the present case. While concluding the argument, it is submitted that investigation in this case is complete, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, while opposing the prayer of bail, fairly conceded that recovered quantity of opium is less than commercial quantity.

In view of the facts and circumstances as mentioned above, as chargesheet has been submitted without obtaining the



FSL report, regarding the alleged recovered contraband i.e., opium, which is less than commercial quantity, let the petitioner, above named, is directed to be released on bail in connection with Saraiya P.S. Case No. 708 of 2020 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge, Muzaffarpur/concerned Court, subject to the following conditions:

“(i) That accused/petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner, duly supported by the documents.



(iii) That one of the bailors shall be
Virendra Baitha, who is the father of the
petitioner and deponent of the present bail
petition.”

(Chandra Shekhar Jha, J)

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