

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.21922 of 2022**

Arising Out of PS. Case No.-542 Year-2021 Thana- BUXAR District- Buxar

Mamta Kumari D/O Late Jhuna Singh R/O Mohalla- Shanti Nagar Ward No.-  
14, P.S.- Buxar (T), District- Buxar (BIHAR)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Arun Kumar Gupta, Advocate

For the Opposite Party/s : Mr. Shailendra Kumar Singh, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA**  
**ORAL ORDER**

3      06-12-2022                      Heard learned counsel appearing on behalf of the  
petitioner and learned APP 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 Buxar (Town)  
P.S. Case No. 542 of 2021 registered for the offence under Sections  
21, 22 and 27 of the Narcotic Drugs and Psychotropic Substances  
Act.

The accused/petitioner is named in the F.I.R. and is in  
custody since 27.11.2021.

The allegation against the petitioner is to have in  
possession of a total 106 grams of contraband, alongwith other co-  
accused persons, which appears to be heroin.

Learned counsel appearing on behalf of the petitioner  
submitted that recovery of the alleged contraband cannot be said to



be made from the conscious physical possession of the petitioner, as per seizure list. It is submitted that provision of Section 50 of NDPS Act, regarding search upon a person was not complied in the present case. It is further submitted that recovered quantity is much less than commercial quantity and, as such, the provision of Section 37 of the NDPS Act is not applicable in the present case. It is also submitted that petitioner, who is a lady, found involved in one more criminal case, where she is on bail. While concluding the argument, it is submitted that investigation in this case is complete for which chargesheet has been submitted, 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 is less than commercial quantity.

In view of the facts and circumstances, as mentioned above, as compliance of Section 50 of NDPS Act appears to be doubtful in the present case, where recovery of contraband is less than commercial quantity coupled with the fact that charge-sheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Buxar (Town) P.S. Case No. 542 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, N.D.P.S. Act, Buxar/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 deponent of the present bail petition.”

**(Chandra Shekhar Jha, J)**

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