

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22885 of 2022

Arising Out of PS. Case No.-718 Year-2021 Thana- MUZAFFARPUR SADAR District-
Muzaffarpur

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Mohammad Jawed @ Chaua, S/o Md. Shakil @ Md. Sakim, Resident of
Village- Majhauriya, P.S. - Sadar, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raju Kumar, Advocate
For the Opposite Party/s : Mr. Rajendra Nath Jha, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 26-07-2022 Learned counsel for the petitioner is permitted to

remove the defect(s), as pointed out by the office, within a

period of four weeks from today.

Heard Mr. Raju Kumar, learned counsel for the
petitioner and learned APP for the State.

At the outset, learned counsel for the petitioner
submits that due to inadvertence, para. 15 of the petition has
been wrongly typed.

Let para. 15 of the petition is treated to be struck off.

The petitioner seeks regular bail, who is in custody in
connection with N.D.P.S. Case No. 02 of 2022, arising out of
Sadar P.S. Case No.718 of 2021, registered for the offences
punishable under Sections 21(b) of the N.D.P.S. Act.



As per prosecution case, it is alleged that while the police was on patrolling duty, on suspicion the petitioner was apprehended and on search being made smack like substance, total weighing 8.40 gm. was recovered from his possession.

It is submitted by the learned counsel appearing on behalf of the petitioner that in fact no recovery has been made from the person or possession of this petitioner and only on suspicion, the petitioner was arrested and thereafter recovery has been shown from his possession. It is next submitted that there is no compliance of the mandatory provisions of Section 50 of the NDPS Act, inasmuch as the rigors provided under Section 37 of the NDPS Act would not be applicable in the present case, as the recovered smack like substance is much less than commercial quantity. It is also submitted that the petitioner is in custody since 30.10.2021, though the charge-sheet has been submitted without obtaining the Forensic Science Laboratory report, which vitiates the entire prosecution case.

On the other hand learned APP for the State vehemently opposes the bail application and submits that the recovery has been made from the possession of this petitioner.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that the alleged



recovered smack like substance is much below the commercial quantity and as such rigors of Section 37 of the NDPS Act would not be applicable in this case, inasmuch as the charge-sheet has been submitted without obtaining FSL report and this petitioner is in custody since 30.10.2021, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge, Muzaffarpur in connection with N.D.P.S. Case No. 02 of 2022, arising out of Sadar P.S. Case No.718 of 2021, subject to the condition that one of the bailors will be the close relatives 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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