

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25012 of 2022

Arising Out of PS. Case No.-886 Year-2021 Thana- PHULWARISHARIF District- Patna

Md.Naushad@Motaro Son Of Md.Nizam Resident Of Lal Manka Dargah,
Ishopur, Sangi Masjid, P.S- Phulwarisharif, Dist- Patna

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raj Shekhar, Advocate.

For the Opposite Party/s : Mr. Satyendra Narayan Singh, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 10-08-2022 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. Raj Shekhar, learned 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 Phulwarisharif P. S. Case No. 886 of 2021 giving rise to Special Case No. 155 of 2021 registered for the offences punishable under Sections 20, 21 (b), 22, 27 of the Narcotic Drugs And Psychotropic Substances Act.

As per the prosecution case, it is alleged that the Police, on a secret information that some persons are engaged in



selling intoxicated substance, conducted a raid and apprehended one person and on search 37 grams of brown sugar was recovered. On interrogation, he disclosed that the recovered substance belong to the petitioner.

Learned counsel appearing on behalf of the petitioner submitted that the petitioner was neither arrested at the spot nor any incriminating material has been recovered from his conscious or constructive possession. It is further submitted that save and except the disclosure made by the apprehended person, there is no other material, which suggests the complicity of the petitioner in the present crime. It is next submitted that in fact, only on account of past criminal antecedent, he has been implicated in this case taking shelter of the confessional statement of co-accused person and moreover, the alleged recovered brown-sugar like substance is much below the commercial quantity and as such, rigours provided under Section 37 of the N.D.P.S. Act would not be applicable in the present case. It is next submitted that the petitioner is in custody since 14.11.2021 and the investigation of the crime is already completed and the charge sheet has been submitted.

On the other hand, learned APP for the State opposes the bail application and submits that the petitioner is



named in five other criminal cases out of them, two are identical in nature. In response to the aforesaid submissions, learned counsel for the petitioner submits that the petitioner is on bail in all the criminal cases and his name has transpired in the confessional statement of the co-accused persons.

Having considered the submissions made on behalf of the parties and taking into account the fact that the petitioner is neither arrested at the spot nor any incriminating material has been recovered for his person or possession and moreover, the antecedent of a person cannot be sole basis for rejection of the bail in as much as save and except the disclosure made by the co-accused person, there is no other material, which suggests the complicity of this petitioner in the present crime and he is in custody since 14.11.2022, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, N.D.P.S. Act, Patna in connection with Phulwarisharif P. S. Case No. 886 of 2021 giving rise to Special Case No. 155 of 2021, 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.

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(Harish Kumar, J)

