

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38522 of 2021

Arising Out of PS. Case No.-226 Year-2020 Thana- KADAMKUAN District- Patna

MUKESH KUMAR @ TOM, S/o Sudhir Mandal, R/o Village/Mohalla-Saidpur Khatal Gali, Renter in the house of Sunil Mahto, P.S.- Kadam Kuan, District- Patna

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mritunjay Prasad Singh, Adv.

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

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 02-03-2022 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within two weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Sanjay Kumar, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Special Case No.79/2020 arising out of Kadamkuan P.S. Case No.226 of 2020 registered for the offences punishable under Section 20/22 of the N.D.P.S. Act. He has got two criminal antecedents in which he is on bail. The petitioner is in custody since 03.06.2020.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case, the seizure



list was not prepared at the place of occurrence and no copy of the same was either given to the petitioner or to the relative of the petitioner. It is further submitted that the petitioner is only about 21 years of age, he belongs to a family living in below poverty line and at this stage he has remained in custody for about one year eight months.

Learned counsel submits that the quantity of Heroine allegedly found in 47 Puriyas are said to be 47 grams only which is much less than the commercial quantity and in this case the rigours of Section 37 of the N.D.P.S. Act, 1985 shall not be attracted.

Learned APP for the State has though opposed the prayer for regular bail of the petitioner, but considering that the quantity of narcotic drugs allegedly recovered from the possession of the petitioner is much less than the commercial quantity, the petitioner has already remained in jail for one year eight months approximately but the trial has not concluded as yet and further that there are two cases pending against him but those are of the year 2015 and 2018 in which he is on bail and there is no submission that the release of the petitioner is likely to result in tampering with the evidence or interfering with the course of trial, this Court directs that the petitioner above named



be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned A.D.J.-XVIII-cum-Special Judge, N.D.P.S. Act, Patna in connection with Special Case No.79 of 2020 arising out of Kadamkuan P.S. Case No.226 of 2020, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that 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 cancellation 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.

A report from the office of Senior Superintendent of Police, Patna has been received vide letter no.479 dated 26th February, 2022. From this report it appears that the order passed by the learned court below to attach the salary of the I.O. till further order was not received in the police office, but after the order of this Court, the Senior Superintendent of Police, Patna has issued memo no.832 dated 25th February, 2022 by which the salary of the then S.H.O. of Kadamkuan police station and the



Investigating Officer has been attached.

In that view of the matter, this Court finds that the order of the learned court below on this issue has been complied with. The learned court below may pass further order.

No further order need be passed by this Court.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

