

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32092 of 2022

Arising Out of PS. Case No.-175 Year-2022 Thana- BUXAR District- Buxar

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BISMILLAH KHAN @ BISMILLA KHAN Son of Haider Ali Resident of
Mohalla - Shanti Nagar, Police Station- Buxar (T), District - Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar

For the Opposite Party/s : Mr.Binod Kumar no.3, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 29-08-2022 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within one

month.

Petitioner seeks regular bail in a case registered for the

offence punishable under Sections 21, 22 and 27 of the NDPS Act.

As per allegation, 64 packet containing total 20 gram

narcotic substance suspected to be heroin were recovered from the

possession of this petitioner.

The main submissions advanced by Sri Sanjay Kumar, the

learned counsel appearing for the petitioner are that 64 packet

containing total 20 gram suspected to be heroin are alleged to have

been recovered from the possession of this petitioner, alleged

recovered suspected material does not come under the purview of

commercial quantity, if weight of paper wrapped in the alleged

contraband is deducted from the total weight of alleged recovered



article then it comes under the purview of small quantity, petitioner has been languishing in jail since 24.3.2022 and petitioner has got criminal antecedent of two cases in which he is on bail.

Sri Binod Kumar no.3, learned APP appearing for the State has opposed the prayer for bail.

Heard both sides and perused the FIR as well as seizure list attached to FIR. As per allegation 64 packet containing total 20 gram narcotic material suspected to be heroin were recovered from the possession of this petitioner, alleged recovered suspected material comes under the purview of less than commercial quantity, and petitioner has taken the plea that while weighing said article paper wrapped in the alleged contraband was also taken into account in the weight of the article if the same is deducted the alleged recovered article comes under the purview of small quantity.

Considering these facts as well as custody period of the petitioner, in the opinion of this court, a lenient approach can be taken in respect of the petitioner. Let the petitioner be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Special Judge, NDPS Act, Buxar in Buxar (T) P.S Case No. 175 of 2022 on the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below



and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case the prosecution will be at liberty to move for cancellation of bail.

(3) One of the bailers shall be close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

(Shailendra Singh, J)

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