

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35775 of 2022

Arising Out of PS. Case No.-324 Year-2021 Thana- SAHPUR District- Bhojpur

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KOMAL YADAV @ KAMAL YADAV Son of Sri Jagdish Yadav Resident of
Village Shahpur, P.S.- Shahpur, District - Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kumar Thakur, Advocate

For the Opposite Party/s : Mr.Uma Shankar Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 19-09-2022 Heard Mr. Ajay Kumar Thakur, learned counsel for

the petitioner and Mr.Uma Shankar Prasad Singh, learned APP

for the State.

Let the defect(s), if any, as pointed out by the
office, be removed within four weeks.

The case is registered under Sections 20, 22 of the
NDPS Act, 1985 in connection with Shahpur P.S. Case No. 324
of 2021.

As per the prosecution story, the officer in-charge has
alleged that upon information that the petitioner and Suraj
Yadav was engaged in selling intoxicated substance at the
house of Komal Yadav raided the said place. Although, two
persons escaped, one Suraj Paswan was apprehended who
named the petitioner as the person who escaped. Further from



Suraj Paswan 143 pieces of 'puria' was recovered in a plastic bag weighing 39 grams of 'heroin' like powder.

Learned counsel for the petitioner submits that nothing has been recovered from conscious possession of the petitioner nor he has any criminal antecedent. It is his further submission that in any case the 'heroin' that has alleged to have been recovered/seized is much below the commercial quantity. His last submission is that the petitioner is in custody since 19.4.2022 (as stated in para-16 of the bail application).

Learned APP on the other hand, submits that he was engaged in selling of 'heroin' which affect the society and as such he does not deserve bail.

Taking into account the facts nothing has been recovered from his conscious possession, he has no criminal antecedent and is in custody since 19.4.2022 as also the fact that recovery has been attributed to one Suraj Paswan and the recovered 'heroin' is below the commercial quantity as envisaged under the NDPS Act, this Court is inclined to grant him the privilege of bail. However if it is found he do have criminal antecedent, the bail order shall become infructuous.

Let the petitioner be released on bail on furnishing bail bond of Rs. 25,000/- (Twenty five thousand) with two



sureties of like amount each to the satisfaction of learned District and Sessions Judge cum Special Judge, NDPS Act, Bhojpur at Ara in connection with Shahpur P.S. Case No. 324 of 2021 subject to the following conditions:

(i) one of the bailors should be the family members of the petitioner, who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reasons will entail his cancellation of bail by the Trial Court itself;

(iii) he shall appear before the concerned police station every fortnight for next six months to mark his presence;

(iv) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

Ravi/Ajay Singh

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