

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.37062 of 2022

Arising Out of PS. Case No.-168 Year-2021 Thana- PIYAR District- Muzaffarpur

Md. Ahamad @ Baba Son of Aftab Alam @ Maksud, Resident of Village -
Chak Mahesi, P.S.- Chak Mahesi, District - Samastipur, Pin - 848302.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar, Adv.

For the Opposite Party/s : Mr. Anil Kumar Singh No.1, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

4 16-11-2022 Let the defect(s), if any, be removed within two weeks
from today.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks regular bail in connection with
NDPS Case No. 145 of 2021 corresponding to Piar P.S. Case
No. 168 of 2021, lodged under Sections 25(1-b)a, 26, 35 of the
Arms Act read with Section 20/22 of the N.D.P.S. Act.

As per accusation, the petitioner was found in
possession of NDPS material i.e. smack like substance
alongwith one loaded pistol.

Learned counsel for the petitioner submits that
petitioner is innocent and has committed no offence. He further
submits that the alleged motorcycle was jointly occupied by
other accused. He also submits that recovery of 13 grams of
smack like substance was made which is in between commercial
and small quantity. Learned counsel further submits that the

seizure list is not supported by the independent witness which is in violation of Section 100(4) of Cr.P.C. and also violation of Section 50 of N.D.P.S. Act has taken place. He further submits that Section 37 is not attracted in the present case. He also submits that petitioner is in custody since 09.10.2021 i.e. more than a year and his antecedent is not clean as there are 6 cases pending against him, out of 6 cases, he is on bail in 4 cases and in other cases he is persuading for bail and none of the cases are relating to NDPS. Learned counsel also states that he has filed an affidavit in this case by which he submits that other co-accused person, from whom, recovery of same weight of smack has been made, was granted bail by the Co-ordinate Bench of this Court vide order dated 08.08.2022 passed in Cr. Misc. No. 18375 of 2022.

Learned counsel for the State opposes the prayer for bail and submits that there are criminal antecedents of petitioner, but he admits that none of the antecedent is of NDPS.

In the present facts and circumstances of this case and the submissions made above, let the petitioner above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions

Judge-II, Muzaffarpur in connection with NDPS Case No. 145 of 2021 corresponding to Piar P.S. Case No. 168 of 2021, subject to the conditions as laid down under Section 437(3) of Cr.P.C. with other following conditions:

A. The petitioner shall support in trial and shall appear physically before the lower court on each and every date fixed, in case of non-appearance for two consecutive dates without sufficient cause, shall be resulted into cancellation of his bail bond.

B. One of the bailors shall be close relative who shall file affidavit before the court about his relationship with the petitioner.

C. The petitioner shall file an affidavit at the time of furnishing of bail bond that he shall not involve in such criminal activity during the continuance of present bail bond, violation of this condition shall be resulted into cancellation of his present bail bond.

With this observation, the bail application stands allowed.

(Dr. Anshuman, J.)

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