

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38993 of 2022

Arising Out of PS. Case No.-171 Year-2022 Thana- BARUN District- Aurangabad

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Ankit Kumar son of rajendra chandrawansi resident of village -kathrua, ward no.1, p.s.- Aurangabad Town, Distt.- Aurangahad, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Rupa Kumari, Advocate

For the Opposite Party/s : Mr. Gauri Shankar Gupta, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 23-09-2022 Heard learned counsel appearing on behalf of the petitioner and learned APP appearing on behalf of the State through virtual Court proceedings.

Let the defect(s), if any, be removed within a period of four weeks from today.

At the outset, learned counsel for the petitioner submitted that at page no.3, in paragraph no.12 of the bail petition, inadvertently, year of custody has been wrongly typed as '29.04.2000' instead of '29.04.2022'.

Accordingly, learned counsel for the petitioner is permitted to make necessary correction during the course of the day itself.

The petitioner seeks bail in connection with Barun P.S. Case No. 171 of 2022 registered for the offence under



Sections 8 and 21(b) of the N.D.P.S. Act.

The accused/petitioner is named in the F.I.R. and is in custody since 29.04.2022.

The allegation against the petitioner is to have in possession of a total of 31.230 grams of contraband i.e., 'Heroin' like substance, alongwith other co-accused persons.

Learned counsel appearing on behalf of the petitioner submitted that the alleged recovery of contraband i.e., 'Heroin' like substance cannot be said to be recovered from the conscious physical possession of the petitioner. It is submitted that seizure list is appearing disputed, as same is supported by police personnel and not by independent witnesses. It is submitted that compliance of Sections 42 and 50 of N.D.P.S. Act has not been made in the present case, where Section 37 of the N.D.P.S. Act is not appearing applicable for the reason that quantity recovered is much less than commercial quantity. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and, moreover, investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, while opposing the prayer of bail, fairly conceded the fact that seizure



list is witnessed by police personnel.

In view of the facts and circumstances, as mentioned above, as recovered contraband i.e., 'Heroin' like substance is less than commercial quantity, where compliance of Section 50 of N.D.P.S. Act appears doubtful, in the background of disputed seizure list coupled with the fact that chargesheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Barun P.S. Case No. 171 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional District and Sessions Judge-cum-Special Judge (NDPS), Aurangabad/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

Ankit/-

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