

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43169 of 2022**

Arising Out of PS. Case No.-194 Year-2022 Thana- MUZAFFARPUR SADAR District-
Muzaffarpur

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Arif Ekbal @ Rakesh S/O Jamil Hussain R/O village- Tinkothiya, Near Abeda
High School, P.S.- Mithanpura, District- Muzaffarpur, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Prabhat Kumar Singh, Advocate
For the Opposite Party/s : Mr.Pradeep Narain Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 23-11-2022 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within

one month.

Heard learned counsel for the petitioner and learned

APP for the State.

Petitioner seeks regular bail in connection with Muzaffarpur

Sadar P.S. Case No. 194 of 2022 registered for the offences

punishable under Sections 21 (b) and 8 (c) ,of the NDPS Act.

As per the prosecution, the informant along with

other police personnel apprehended this petitioner from the

alleged place and upon making search from the possession of

this petitioner 50 *Pudiyas* of narcotic material suspected to be

Smack weighing 40 grams in totality were recovered.

The main submissions advanced by learned counsel Mr.Prabhat Kumar Singh appearing for the petitioner are that only 40 gm narcotic material suspected to be *Smack* kept in 50 small Pudiyas is alleged to have been recovered from the possession of this petitioner and the said seized suspected narcotic material is very much lesser than the commercial quantity and against the petitioner there a criminal antecedent of one case bearing Kazi Mohammadpur P.S. Case No. 286 of 2021 lodged under Section 20 (b) of NDPS Act but in the said case the petitioner was not named in the FIR and even no whisper was made by co-accused who was arrested at the spot about the involvement of the petitioner in the said case but during the course of investigation the petitioner was dragged in that case merely on the basis of confessional statement of co-accused person. Further submission is that the provisions under Section 50 of NDPS Act has been violated while making the search and seizure of the alleged contraband and the petitioner is a Rickshaw puller and he has been languishing in jail since 16.04.2022.

Learned APP Mr. Pradeep Narain Kumar, appearing for the State has opposed the prayer for bail.

In view of above submissions and mainly considering

the petitioner's custody period and also the fact that he is stated to be a Rickshaw puller and the main witnesses who are to be examined during the trial are official witnesses and the seized suspected narcotic material is much lesser than the commercial quantity, in the opinion of this Court the petitioner deserves to a lenient approach of this Court. Accordingly, 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 court concerned in connection with Muzaffarpur Sadar P.S. Case No. 194 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 a close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

(4) The court below will verify the criminal antecedent of the petitioner but acceptance of bail bond will not be delayed on account of process of verification of the said criminal antecedent. If any criminal antecedent other than of Kazi Mohammadpur P.S. Case No. 286 of 2021 of the petitioner is found then the court below shall take serious action against him for cancellation of his bail bond.

(Shailendra Singh, J.)

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