

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39901 of 2022

Arising Out of PS. Case No.-245 Year-2021 Thana- DURGAWATI District- Kaimur (Bhabua)

Wakil Ansari Son of Late Aharf Ansari R/O Village- Durgawati, P.S.-
Durgawati, District- Kaimur At Bhabua

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Uday Pratap Singh, Advocate
For the State	:	Mr. Renu Kumari, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 18-11-2022 Heard learned counsel appearing on behalf of the
petitioner and learned APP appearing on behalf of the State.

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

The petitioner seeks bail in connection with
Durgawati P.S. Case No. 245 of 2021 registered for the offence
under Sections 21(a) and 27(a) of the N.D.P.S. Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 09.11.2021.

The allegation against the petitioner is to have in
possession of five (05) grams of heroin, including wrapped
paper.



Learned counsel appearing on behalf of the petitioner submitted that alleged recovery of contraband i.e., heroin was not made from the conscious physical possession of the petitioner. It is submitted that compliance of Sections 42 and 50 of the Cr.P.C. was also not made in the present case, which otherwise mandatory. It is pointed out that from the seizure list, it appears that five gram of weight is inclusive of wrapped paper and, as such, the actual amount of heroin, by all probability, appears less than five gram, which falls under the category of less than smaller quantity, for which maximum punishment on conviction is up to one year, where petitioner is languishing in jail since 09.11.2021 in the present case. It is also submitted that petitioner is involved in one more criminal case, which is of excise, where he is on bail.

Learned APP appearing on behalf of the State, while opposing the prayer of bail, fairly conceded the fact that, as per seizure list, recovered quantity appears to be less than smaller quantity i.e., 5 gram.

In view of the facts and circumstances, as mentioned above, as recovered quantity is less than smaller quantity, where petitioner is in custody since 09.11.2021, let the petitioner, above named, is directed to be released on bail in connection



with Durgawati P.S. Case No. 245 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge, Kaimur at Bhabua/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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