

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41911 of 2022

Arising Out of PS. Case No.-184 Year-2022 Thana- AHIYAPUR District- Muzaffarpur

Keshav Kumar Son Of Vijay Jha R/O Village- Bara Jagarnath, P.S.- Ahiyapur,
Distt.- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Bela Singh, Advocate

For the Opposite Party/s : Mr. Navin Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 17-10-2022 Let the defects, if any, be removed within four
weeks from today.

Heard Mrs. Bela Singh, learned counsel for the
petitioner as well as learned Additional Public Prosecutor
for the State.

Petitioner seeks bail in a case registered in
connection with NDPS Case No. 71 of 2022 arising out of
Ahiyapur P.S.Case No. 184 of 2022, registered for the
offences punishable under Sections 8, 20 (b) (ii) (B) of the
N.D.P.S Act.

In course of patrolling duty, the police on a secret
information with regard to assemblage of miscreants
apprehended two persons including the petitioner and on



search 200 gm Charas like substance and a mobile was recovered from possession of the petitioner and it is alleged that 175 gm Charas, two mobile and motorcycle was also recovered from possession of co-accused Pranav Kumar.

Learned counsel for the petitioner submits that in fact nothing incriminating material has been recovered from conscious possession of the petitioner but only on account of his past criminal antecedent as mentioned in Para-3 of the petition, his name has been implicated in this case. It is next submits that so far as the recovery of Charas like substance is concerned, the same is much below the commercial quantity and as such rigours provided under section 37 of the NDPS Act is not applicable in the present case. Apart from the fact that charge sheet has been submitted without obtaining the FSL report which also make the entire investigation doubtful. She next submits that co-accused persons namely, Pranav Kumar @ Pankaj in whose possession 175 gm Charas, two mobile and motorcycle were recovered he has been allowed privilege of bail by the learned co-ordinate Bench of this Court in Cr. Misc. No. 36987 of 2022 vide order dated 21.09.2022. She



last submits that now the investigation of the crime is already complete and the charge sheet has been submitted and as such keeping the petitioner behind the bar would serve no further purpose. Apart from the aforesaid submissions, she also submits that there are other infirmities in search and seizure.

On the other hand, learned counsel for the State vehemently opposed the bail application and submits that the petitioner was found involved in similar nature of crime as has been mentioned in Paragraph-3 of the petition and he alleged to be habitual offender.

Regard being had to the submissions made on behalf of the parties and considering the fact that the alleged recovered Charas like substance is below the commercial quantity and the rigours provided under section 37 of the NDPS Act would not be applicable, apart from the fact that the another co-accused person having identical allegation has been allowed privilege of bail, moreover, after completion of investigation charge sheet has been submitted, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty



Thousand) with two sureties of the like amount each to the satisfaction of learned 2nd Additional Sessions Judge, Muzaffarpur in connection with NDPS Case no. 71 of 2022 arising out of Ahiyapur P.S. Case No. 184 of 2022 subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The Court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancelling of bail bond of the petitioner. However, the acceptance of bail



bonds in terms of the above- mentioned order shall not be
delayed for purpose of or in the name of verification

(Harish Kumar, J)

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