

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41881 of 2022

Arising Out of PS. Case No.-26 Year-2022 Thana- GALGALIYA District- Kishanganj

Md. Munna Son of Sheikh Kalam @ Kamal Resident of village - Lakdi Depu,
P.S.- Galgalia, District - Kishanganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate
		Ms. Priyanka Singh, Advocate
For the Opposite Party/s	:	Mr. Shyam Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 17-11-2022 The learned counsel for the petitioner is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Heard learned Sr. counsel for the petitioner and learned APP for the State.

Petitioner seeks regular bail in connection with Galgalia P.S. Case No. 26 of 2022 registered for the offences punishable under Sections 8 (c) and 21 (b) of the NDPS Act.

As per the prosecution, the informant along with other police personnel acting upon a secret information apprehended this petitioner from the alleged place and upon making search from the possession of this petitioner 9.8 grams of narcotic material suspected to be Brown Sugar was recovered.

The main submissions advanced by learned senior counsel Mr. Yogesh Chandra Verma, appearing for the petitioner are that while making the search and seizure of the alleged contraband the mandatory provisions of Sections 42, 43, 50 and 55 of the NDPS Act were not followed by the concerned agency, the seizure memo of the alleged contraband does not bear the signature of the petitioner which violates the provisions of Section 100 (6) of Cr.P.C. and the said memo was not prepared at the place where the alleged contraband was seized. Further submission is that the alleged recovered contraband is slightly more than small quantity but lesser than the commercial quantity and the petitioner bears clean antecedent and has been languishing in jail since 07.04.2021.

Learned APP Mr. Shyam Kumar Singh, appearing for the State has opposed the prayer for bail.

Heard both the sides and perused the FIR and the seizure memo attached to the FIR. The petitioner has clean antecedent and he has been languishing in jail since 07.04.2021 and the alleged seized contraband which was suspected to be Brown Sugar, is stated to be lesser than commercial quantity and the seizure memo goes to show that the petitioner's signature was not taken on the said memo by the concerned agency while

making the seizure memo. Considering these facts as well as above submissions and mainly taking into account the petitioner's custody period and also the fact that the alleged seized contraband comes under the purview of lesser than commercial quantity, in the opinion of this Court the petitioner deserves to a lenient approach of this Court. Accordingly, let the petitioner be enlarged 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 Sessions Judge-Cum-Special Judge (NDPS Act), Kishanganj in connection with Galgalia P.S. Case No. 26 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 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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