

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52487 of 2021

Arising Out of PS. Case No.-222 Year-2021 Thana- UDWANTNAGAR District- Bhojpur

KARAN PASWAN Son of Shyam Jivan Paswan R/o Choukipur, Chanda,
Chandwa, P.S. - Udwanthnagar, Gazrajgang O.P., District - Bhojpur, Bihar -
802312

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Akash Shankar, Adv.

For the Opposite Party/s : Mr. Jagdhar Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 21-04-2022 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

The petitioner seeks bail in a case registered for the
offence under Section 21(B) of the NDPS Act.

Recovery is of 26 gram of heroin from the possession
of the petitioner.

Learned counsel appearing for the petitioner submits
that the petitioner, who is of clean antecedent, is innocent and
has falsely been implicated in this case. He further submits that it
appears from the F.I.R. itself that altogether 26 Gram of alleged
Heroin has been recovered from the possession of the petitioner.
He further submits that as per notification issued under the
N.D.P.S. Act, 1985, the small quantity of Heroin has been specified
as 5 grams, whereas the commercial quantity has been specified



as 250 grams. In fact, in this case, the total recovery is of 26 Gram as per seizure list, thus, it is apparent that the quantum of alleged heroin recovered from the possession of the petitioner does not fall within the purview of commercial quantity, hence, there is no bar for this Court to grant the privilege of bail to the petitioner and Section 37 of the N.D.P.S. Act does not come into play in this case. The petitioner is rotting in judicial custody since 22.05.2021.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner and submits that the F.S.L. report confirms that the seized article from the possession of the petitioner is Heroin but he fairly submits that the alleged quantity of recovery does not come under the purview of commercial quantify.

Considering the facts and circumstances of the case, let the, above named, petitioner be released on bail on furnishing bail bond of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with NDPS No. 19 of 2021 arising out of Udwant Nagar P.S. Case No. 222 of 2021 with 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 and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient



reason, his/her bail bond shall be canceled 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.

And, further condition that 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 cancellation 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.

(Rajesh Kumar Verma, J)

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