

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53315 of 2021

Arising Out of PS. Case No.-46 Year-2021 Thana- MAIRWAN District- Siwan

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Dhananjay Prasad @ Munna, S/o Late Jagdish Prasad, Resident of Village-
Purani Bazar, P.S.- Purani Bazar, District- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Dubey, Advocate

For the Opposite Party/s : Mr. Zainul Abedin, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 23-08-2022 Learned counsel for the petitioner is permitted to

remove the defect(s), as pointed out by the office, within a

period of four weeks from today.

Heard Mr. Ranjan Kumar Dubey, learned counsel for
the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Mairwa P.S. Case No. 46 of 2021 registered for
the offences punishable under Sections 8/21/25 of the N.D.P.S.
Act.

As per prosecution case, it is alleged that on a
confidential information that the petitioner is indulged in selling
of Charas/Smack, the police apprehended the petitioner and on
search 66.25 gm smack like substance with plastic sachet was
recovered from his possession.



Learned counsel appearing on behalf of the petitioner submits that in fact nothing has been recovered from the person or possession of this petitioner, rather the same has been recovered from other place and only on account of past two criminal antecedent in similar nature of crime, he has been implicated in this case. It is next submitted that the alleged recovered smack like substance is though more than smaller quantity, but less than commercial quantity and as such the rigors provided under Section 37 of the N.D.P.S. Act would not be applicable in this case. It is also submitted that the investigating officer without obtaining the F.S.L. report has submitted the charge-sheet, which vitiates the entire investigation and moreover the petitioner is in custody since 12.02.2021. It is lastly submitted that there is no compliance of Section 50 of the NDPS Act, apart from, other serious infirmities in preparation of the seizure list as well as in the institution of the F.I.R.

On the other hand learned APP for the State vehemently opposes the bail application and submits that smack has been recovered from the possession of the petitioner and he is also found involved in similar kind of cases.

Having regard to the submissions made on behalf of



the parties and taking into consideration the fact that the alleged recovered smack like substance is below the commercial quantity and there is other infirmities in preparation of the seizure list as well as the fact that charge-sheet has been submitted without obtaining the F.S.L. report and this petitioner is in custody since 12.02.2021, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-cum-Special Judge, Siwan in connection with Mairwa P.S. Case No. 46 of 2021, 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 physically 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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