

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44465 of 2022

Arising Out of PS. Case No.-372 Year-2022 Thana- ARARIA District- Araria

Sulekha Devi W/O Naresh Rishideo R/o Jay Prakash Nagar, Ward No- 7, P.S.-
Araria, District- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 45235 of 2022

Arising Out of PS. Case No.-372 Year-2022 Thana- ARARIA District- Araria

Deepak Kumar son of harideo yadav resident of village - kharaiya basti, ward
no.- 10, P.S. and District - Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 44465 of 2022)

For the Petitioner/s : Mr. Binod Kumar, Advocate

For the Opposite Party/s : Mrs. Rita Verma, APP

(In CRIMINAL MISCELLANEOUS No. 45235 of 2022)

For the Petitioner/s : Mr. Anil Prasad Singh, Advocate

For the Opposite Party/s : Mr. Rajendra Nath Jha, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 08-12-2022

(In Cr. Misc. No. 44465 of 2022)

Heard learned counsel appearing on behalf of the
petitioner and learned counsel 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 Araria



P.S. Case No. 372 of 2022 registered for the offence under Sections 21(c), 22, 25 of N.D.P.S. Act

The accused/petitioner is named in the F.I.R. and is in custody since 27.05.2022.

The allegation against the petitioner is to have in possession of 10 gram of smack, alongwith other co-accused persons, with further allegation to engage in commercial activities.

Learned counsel appearing on behalf of the petitioner submitted that admittedly, no contraband/narcotics, i.e. smack recovered from physical possession of this petitioner. It is submitted that recovery of alleged smack was made from co-accused outside the house of this petitioner. It is submitted that compliance of Section 100(4) of the Cr.P.C. was not made in this case. It is submitted that compliance of Section 42 and 50 of N.D.P.S. Act was not made in present case, which was otherwise mandatory. While concluding the argument, it has been submitted that investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail fairly conceded the fact that recovered quantity is less than



commercial quantity.

Considering the facts and circumstances as mentioned above, as there is no recovery of contraband from physical possession of this petitioner, who is a lady coupled with the fact that charge-sheet has been submitted, let the petitioner, above named, is directed to be released on bail in connection with Araria P.S. Case No. 372 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-I cum Special Judge (N.D.P.S. Act), Araria/concerned Court, subject to the conditions as mentioned :

“(i) That accused/petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial



Court, only on medical ground of the petitioner, duly supported by the documents.

(iii) That one of the bailors shall be deponent of the present bail petition.”

(In Cr. Misc. No. 45235 of 2022)

Heard learned counsel appearing on behalf of the petitioner and learned counsel 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 Araria P.S. Case No. 372 of 2022 registered for the offence under Sections 21(c), 22, 25 of N.D.P.S. Act

The accused/petitioner is named in the F.I.R. and is in custody since 07.03.2022.

The allegation against the petitioner is to have in possession of 10 gram of smack, alongwith other co-accused persons, with further allegation to engage in commercial activities.

Learned counsel appearing on behalf of the petitioner submitted that recovered smack, which is only 10 grams, is less than commercial quantity. It is submitted that compliance of



Section 100(4) of the Cr.P.C. was not made available in this case. It is submitted that compliance of Section 42 and 50 of N.D.P.S. Act was not made available in present case, which was otherwise mandatory. While concluding the argument, it has been submitted that investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail fairly conceded the fact that recovered quantity is less than commercial quantity.

Considering the facts and circumstances as mentioned above, as recovered quantity was contraband, i.e. smack appears to be less than commercial quantity, where compliance of Section 50 of N.D.P.S. Act appears doubtful coupled with the fact that charge-sheet has been submitted, let the petitioner, above named, is directed to be released on bail in connection with Araria P.S. Case No. 372 of 2022 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, Araria/concerned Court, subject to the conditions as mentioned :

“(i) That accused/petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing



which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner, duly supported by the documents.

(iii) That one of the bailors shall be deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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