

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54414 of 2021

Arising Out of PS. Case No.-202 Year-2021 Thana- KRITYANAND NAGAR District-
Purnia

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Aakash Kumar Singh @ Aakash Kumar @ Sittu Singh Son Of Late Rajkishor Singh Resident Of Village - Suddin Chowk, Tatma Toli, P.S.- K. Hat (Sahayak), Distt.- Purnea.

... .. Petitioner/s

Versus

1. Union of India Govt. of India.
2. The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Abdul Mannan Khan, Adv
		Mr. Binay Kumar, Adv
For the Union of Indian	:	Mr. K.N.Singh, AD.S.G
For the Informant		Mr. Satish Kumar Singh, Adv

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 29-08-2022 Let the defects, if any, be removed within four weeks
from today.

Heard Mr. Vikram Dev Singh, learned counsel for the petitioner as well as Mr. K.N.Singh learned AD.S.G for the Union of India and Mr. Aditya Narayan Singh learned APP for the State.

Petitioner seeks bail in a case registered in connection with K.Nagar P.S. Case No. 202 of 2021 arising out of Special Case No. 30 of 2021 for the offences punishable under Sections 8 (c), 21 (b) of the Narcotic Drugs and Psychotropic Act.



As per the prosecution case, it is alleged that the police on a secret information that the petitioner is carrying some smack/ brown sugar in the Swift car intercepted him and on search 30 gm brown sugar kept in a white colour plastic from the right side of the pocket of the petitioner was recovered.

Learned counsel for the petitioner submits that no contraband substance has been recovered from conscious possession of the petitioner rather the alleged recovered substance has been planted by the police because he had been earlier made accused in K.Nagar P.S.Case No. 84 of 2021, in which the name of the petitioner has surfaced in confession of apprehended co-accused person and the police was in search of him. It is further submitted that admittedly the alleged recovered substance was more than small quantity but much less than commercial quantity and as such the rigor provided under section 37 of the N.D.P.S would not be applicable in the present case. It is also submitted that there is no compliance of section 50 of the NDPS Act in as much as the police without obtaining FSL report has submitted charge sheet which also vitiate the investigation. It is lastly submitted that the petitioner is in custody since 20.05.2021 and after completion of investigation charge sheet has been submitted.



On the other hand, learned counsel for the State opposed the bail application and submits that petitioner is found involved in two other serious nature of crime and one case is also relating to N.D.P.S Act. It is also submitted that smack/ brown sugar has been recovered from possession of the petitioner and moreover, the entire recovery and seizure has been made before the Authorized Gazettee Officer, and after following all the due procedure the sample has been sent to Forensic Science Laboratory for chemical examination.

Having heard the rival contentions of the parties and taking into consideration the fact that the alleged recovery of contraband substance is below the commercial quantity and as such the rigor provided under section 37 of the NDPS Act would not be applicable and moreover, the petitioner is in custody since 25.05.2021 and the charge sheet has been submitted without obtaining FSL report, 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 Special Judge, N.D.P.S. Act, Purnea in connection with Special Case no. 30 of 2021 arising out of K. Nagar P.S. Case No. 202 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 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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