

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45908 of 2022

Arising Out of PS. Case No.-111 Year-2022 Thana- PHULWARISHARIF District- Patna

Akshay Mahto @ Akshay Kumar S/o Surendra Mahto Resident of Uttri Sangat,
Kumhar Toli, P.S.- Phulwarisharif, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Saurav Anand, Adv.

For the Opposite Party/s : Mr. Raj Ballabh Singh, APP.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 29-11-2022 The learned counsel for the petitioner is directed to
remove all the defects pointed out by the Stamp Reporter within
one month.

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

Petitioner seeks regular bail in connection with
Phulwarisharif P.S. Case No. 111 of 2022 registered for the
offences punishable under Sections 20, 21(b), 22, 27 of the
N.D.P.S. Act and Sections 27(1-b)a, 26 and 35 of the Arms Act.

As per the prosecution, the informant along with other
police personnel acting upon a secret information apprehended
this petitioner and upon making search from the possession of
this petitioner a loaded country-made pistol with five live
cartridges, seven cartridges, one magazine with five live
cartridges, a cash of Rs 10,000/- and ten pudiyas of Narcotic
material suspected to be *Brown Sugar* weighing 2.5 grams in



totality were recovered. Further it is alleged that upon making search of the petitioner's house 23 pudiyas of Narcotic material suspected to be *Brown Sugar* weighing 5.75 grams in totality and a cash of Rs. 1,58,000/- were also recovered.

The main submissions advanced by learned counsel Mr. Saurav Anand appearing for the petitioner are that the allegation of recovery of fire-arms and *Brown Sugar* from the possession of this petitioner is completely false and fabricated and as per the FIR only 2.5 grams of *Brown Sugar* was alleged to have been recovered from the conscious possession of this petitioner and the rest 5.75 grams of Narcotic material suspected to be *Brown Sugar* was alleged to have been recovered from the house of this petitioner which is in joint possession and the same cannot be deemed to have been made from the conscious possession of this petitioner who have been languishing in jail since 12.02.2022 and he is a student. Further submission is that while making search and seizure the provisions of Section 50 and 42 of the N.D.P.S Act were not followed by the police and the seized Rs. 1,58,000/- belong to the petitioner and petitioner's wife and both remained in judicial custody for about nine months.

Learned APP Mr. Raj Ballabh Singh appearing for the State has opposed the prayer for bail.



Heard both the sides and perused the FIR and the seizure list. The instant matter relates to the recovery of fire-arms and Narcotic material suspected to be *Brown Sugar*; though as per the seizure list 2.5 grams of Narcotic material suspected to be *Brown Sugar* was allegedly recovered from the conscious possession of the petitioner but at the same time one pistol loaded with magazine and several cartridges were also recovered from the possession of this petitioner and as per the prosecution, from the house of this petitioner twenty-three packets containing 5.75 grams of Narcotic material suspected to be *Brown Sugar* were also recovered along with Rs. 1,58,000/- which was allegedly collected by the petitioner and co-accused persons by selling the alleged contraband. Considering the nature of allegation appearing against the petitioner in the FIR, the petitioner does not deserve to the privilege of bail. Accordingly, his prayer for bail stands rejected.

The petitioner may renew his bail prayer after six months, if any significant progress is not made in his case with regard to the proceeding of his trial.

(Shailendra Singh, J.)

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