

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46880 of 2022**

Arising Out of PS. Case No.-203 Year-2022 Thana- MUZAFFARPUR SADAR District-
Muzaffarpur

MD. SHAMIM @ MD. SONU S/o Md. Nafijan Resident of Village- Bairiya,
Sadatpur, P.S.- Kanti, District- Muzaffarpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 52777 of 2022

Arising Out of PS. Case No.-203 Year-2022 Thana- MUZAFFARPUR SADAR District-
Muzaffarpur

MD. SALAUDDIN S/O MD. RAZA Resident of Village- Sirsayed Colony,
P.S.- Mithanpura, District- Muzaffarpur, Bihar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 46880 of 2022)

For the Petitioner/s : Mr. Yugal Kishore, Advocate

For the Opposite Party/s : Mr. Abhay Kumar Roy, APP

(In CRIMINAL MISCELLANEOUS No. 52777 of 2022)

For the Petitioner/s : Mr. Prabhat Kumar Singh, Advocate

For the Opposite Party/s : Dr. Indihar Kumari, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

2 22-12-2022

IN CR. MISC. NO. 46880 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.

Learned counsel for the petitioner seeks permission to



add/insert a paragraph as regard to criminal antecedent of this petitioner, in the present bail petition, during course of the day, as the same has inadvertently been deleted in the present petition.

Request allowed.

The petitioner seeks bail in connection with Sadar P.S. Case No. 203 of 2022 registered for the offence under Sections 21(b) and 8(c) of the NDPS Act.

The accused/petitioner is named in the F.I.R. and is in custody since 19.04.2022.

The allegation against the petitioner is to have in possession of 8 gm narcotics/contraband i.e. smack.

Learned counsel appearing on behalf of the petitioner submitted that alleged recovery of narcotics/contraband was not made from conscious physical possession of the petitioner. It is also submitted that compliance of Section 42 and 50 of the NDPS Act was not made in the present case, which is otherwise a mandatory provision under law. It is also submitted that as recovered quantity is less than commercial quantity, therefore, restrictions as under Section 37 of the NDPS Act is not appears applicable, in the present case. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and



moreover, investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, opposes the prayer of bail.

Considering the facts and circumstances as mentioned above, as alleged recovery of narcotics/contraband is less than commercial quantity, where, compliance of Section 50 of the NDPS Act, appears doubtful, where, petitioner is in custody since 19.04.2022 coupled with the fact that charge-sheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Sadar P.S. Case No. 203 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, Muzaffarpur/concerned court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C.

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Learned APP appearing on behalf of the State, opposes the prayer of bail.



Considering the facts and circumstances as mentioned above, as alleged recovery of narcotics/contraband is less than commercial quantity, where, compliance of Section 50 of the NDPS Act, appears doubtful, where, petitioner is in custody since 19.04.2022 coupled with the fact that charge-sheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Sadar P.S. Case No. 203 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 1st Additional Sessions Judge, Muzaffarpur/concerned court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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