

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.48618 of 2022**

Arising Out of PS. Case No.-366 Year-2022 Thana- AHIYAPUR District- Muzaffarpur

Gajendra Sah S/o Chhitnu Sah Resident of Village- Jiyalal Chawk, P.S.-
Ahiyapur, District- Muzaffarpur, State Bihar.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Nachiketa Jha, Advocate

For the Opposite Party/s : Ms. Asha Devi, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 09-12-2022 Learned counsel for the petitioner will remove all the defects as pointed out by office within two weeks from today.

Heard learned counsel for the petitioner and Ms. Asha Devi, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with N.D.P.S. Case No. 116 of 2022 arising out of Ahiyapur P.S. Case No. 366 of 2022 registered for the offences punishable under Section 8(c)/21(b) of N.D.P.S. Act. He is in custody since 07.05.2022. The petitioner has got one criminal antecedent.

Learned counsel for the petitioner submits that as per the prosecution story, the informant along with other police personnel proceeded for day patrolling. When the police team reached gate no. 1 of Bazar Samiti, a person started fleeing



away on seeing the police party but on chase got apprehended and from his pocket, total 35 puriyas of smack like substance was recovered weighing 15 gms.

Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. It is submitted that the petitioner is in custody in connection with this case since 07.05.2022.

Learned counsel submits that the quantity of smack is much less than the commercial quantity, hence, rigors of Section 37 of the NDPS Act would not be attracted.

Ms. Asha Devi, learned APP for the State is present and has opposed the prayer for regular bail of the petitioner.

Having regard to the submissions that the quantity of smack is much less than the commercial quantity and it is the submission of learned counsel for the petitioner that the charge-sheet has been filed in this case even without obtaining the FSL Report, the petitioner is in custody since 07.05.2022, there is no submission on behalf of the State that his release is likely to result in tampering with the evidence or interfering with the course of trial, this Court directs that the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the



like amount each to the satisfaction of learned Sessions Judge
-cum- Special Judge, Muzaffarpur in connection with Ahiyapur
P.S. Case No. 366 of 2022, subject to the condition as laid down
under Section 437 (3) Cr.P.C.

And further condition that 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 steps for cancellation 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.

This application is allowed.

Certified copy of this order shall be made available
only after removal of the defects.

(Rajeev Ranjan Prasad, J)

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