

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61513 of 2021**

Arising Out of PS. Case No.-221 Year-2021 Thana- MINAPUR District- Muzaffarpur

Keshav Kumar Singh @ Keshav Sarkar @ Keshav Kumar S/O Ram Kishore
Singh R/O Village- Riga Tole Bagahi, P.S.- Riga, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Alok Kumar Alok

For the Opposite Party/s : Mr.Upendra Kumar

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER**

3 02-08-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with N.D.P.S. Case No. 70 of 2021 arising out of Minapur P.S. Case No. 221 of 2021 registered for the alleged offences under Sections 20 and 22 of the N.D.P.S. Act.

As per prosecution case, the petitioner was apprehended by the police on receiving information that he was moving in suspicion state. On apprehension, the petitioner disclosed that he had come to deliver 'smack' and on search being conducted 64 sachet of smack was recovered from the pocket of



jeans of this petitioner.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. Nothing incriminating has been recovered from the conscious possession of the petitioner. Police has forcibly taken signature of the petitioner on blank papers and converted it into the seizure list. Learned counsel further submits that the allegedly recovered substance has not been weighed and so quantity of seized article has not been ascertained. Furthermore, charge sheet has been submitted in this case but there is no report of Forensic Science Laboratory so nature of the seized articles has also not been ascertained. Therefore, it could not be said with certainty that the articles recovered is smack. Learned counsel further submits that the petitioner is in custody since 21.06.2021.

Learned APP for the State opposes the prayer for bail of the petitioner submitting that the petitioner was caught red handed and from his possession 64 sachet of smack were recovered. However, the learned APP concede that no weight has been given for the recovered articles and it is also not clear about the nature of substance. There is no report of Forensic Science Laboratory on record.

Having regard to the fact that there is doubt over weight as well as nature of seized articles and further considering



the submission of charge sheet without F.S.L. report and also the fact that petitioner is in custody for a year, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge, Muzaffarpur in connection with N.D.P.S. Case No. 70 of 2021 P.S. Case No. 221 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) The bail bond of the petitioner will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be a close relative of the petitioner.
- (iii) The petitioner will remain present on each and every date fixed by the court below.
- (iv) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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