

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61696 of 2021

Arising Out of PS. Case No.-402 Year-2021 Thana- AHIYAPUR District- Muzaffarpur

JAINUL HUSSAIN @ JAIN MEHANDI Son of Late Waris Hussain Resident
of Village- Kolhua Paigambarpur, P.S.- Ahiyapur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. THE UNION OF INDIA THROUGH D.R.I. MUZAFFARPUR.
Muzaffarpur.
2. The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Syed Asgher Najmi
For the Opposite Party/s	:	Mr.K.N.Singh (Adsg)
For the UOI	:	Mr. Ranvir Kumar Sr. Standing Counsel

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 03-08-2022 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 Ahiyapur P.S. Case No. 402 of 2021, N.D.P.S. Case No. 72/2021, registered for the alleged offences under Sections 20 and 22 of the N.D.P.S. Act.

As per prosecution case, the petitioner and co-accused persons were apprehended on information receipt by the police that they were consuming ‘smack’ and on search of the



petitioner 20 sachet of smack were recovered.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. Though the occurrence took place on 20.06.2021 and FIR was registered on the same day but it was sent to the court after only two days. The police has not followed the procedure as provided under Section 50 of the NDPS Act before search of the petitioner. Nothing incriminating has been recovered from possession of the petitioner who was on way to home and was apprehended and has been falsely implicated in this case. Learned counsel further submits that though the recovery of smack has been shown but no weight of the seized contraband has been given. Learned counsel further submits that co-accused Kishan Kumar has been granted bail vide order dated 23.05.2022 passed in Cr. Misc. No. 69024/2021. Further, there is no report of chemical examination but the charge sheet has been submitted in this case and the petitioner is in custody since 22.06.2021.

Learned APP opposes the prayer for bail of the petitioner submitting that recovery has been made from the possession of the petitioner of 20 sachet of smack. However, he concedes that no weight has been given in the seizure list or any



where, during the investigation and the report of F.S.L. is still awaited.

Perused the records.

Having regard to the submission made on behalf of the parties and considering the fact that no quantity of seized contraband has been mentioned anywhere and further there is no chemical examination report to show the nature of contraband and further considering the submission of charge sheet and the period of custody of the petitioner, 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 8th Additional Sessions Judge-cum-Special Judge, N.D.P.S., Muzaffarpur in connection with Ahiyapur P.S. Case No. 402 of 2021, N.D.P.S. Case No. 72/2021, 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 the person, who has sworn the affidavit.
- (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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