

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.53030 of 2022**

Arising Out of PS. Case No.-83 Year-2022 Thana- MITHANPURA District- Muzaffarpur

Upendra Sharma Son Of Late Dina Nath Sharma R/O Village- Etwa Mahesia,
P.S.- Derani, District- Saran (Chapra)

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Manish Chandra Gandhi, Advocate

For the Opposite Party/s : Mr.Md. Ataur Rahman, APP

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

2 23-12-2022 Learned counsel for the petitioner undertakes to
remove the SR defects by 16th January, 2023.

Learned counsel for the petitioner is permitted to
make corrections in paragraph ‘11’ of the application. Learned
counsel submits that in the second last line of paragraph ‘11’ the
word “petitioner” has been wrongly typed in place of “accused
persons”. Permission is granted.

Let the corrections be carried out.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail
in connection with Mithanpura P.S. Case No. 83 of 2022,
N.D.P.S. Case No. 77/2022 registered for the offences
punishable under Section 399 and 402 of the Indian Penal Code



and Sections 8(C) and 20(b)(ii)(B) of the N.D.P.S. Act, 1985. He is in custody since 20.03.2022 having no criminal antecedent as stated in paragraph '3' of the application.

As per the prosecution story, the informant has alleged that on secret information that some miscreants are assembled to commit any offence in the campus of Raj Kumar Jalan situated to the office of Manipurnam Gold Finance Limited. Thereafter the same place was surrounded by the informant and his team and on seeing the police team all the persons started fleeing from there. Police chased them and apprehended them. They disclosed their names as Madan Mahto, Jatu Mahto @ Chhotu, Upendra Sharma (the petitioner). From the pocket of the petitioner 22 sachets of smack like powder was recovered.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. Nothing has been recovered from the conscious possession of the petitioner, however he is in custody since 20.03.2022.

Learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner.

Having regard to the facts and circumstances of the case wherein the total weight of the alleged 22 puriya of smack



like powder has not been clearly mentioned in the seizure list, the allegation of recovery of 60 puriya of smack like powder measuring total about 15 grams is against three persons, the co-accused Madan Mahto has already been granted bail in Cr. Misc. No. 42763/2022, the quantity is less than commercial quantity and the petitioner has no criminal antecedent, 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 or that his presence may be secured in course of trial, this Court directs release of the petitioner above named 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 Additional District and Sessions Judge, Muzaffarpur in connection with Mithanpura P.S. Case No. 83/2022, N.D.P.S. Case No. 77/2022, 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 step 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.

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

(Rajeev Ranjan Prasad, J)

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