

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64549 of 2021

Arising Out of PS. Case No.-33 Year-2021 Thana- SUHAIL District- Gaya

Krishna Kumar, Son of Om Parkash @ Om Prakash, Resident of Village - Aazad Nagar Ratiya Chungi, P.S.- Sadar Fatehabad, District - Fatehabad (Haryana).

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Union of India through Narcotics Commissioner, New Delhi. New Delhi

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arvind Kumar Singh, Advocate
For the Opposite Party/s : Mrs.Anita Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 29-08-2022 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 Sohail P.S. Case No. 33 of 2021 registered for the alleged offences under Sections 8, 20(B)(ii)(c), 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act.

As per prosecution case, the petitioner and other co-accused were apprehended and from the possession of the co-accused persons, 950 grams and 1050 grams of opium was



recovered. The petitioner is stated to be the driver-cum-owner of the vehicle.

The learned counsel for the petitioner submits that the petitioner has no knowledge about the contraband being carried by the co-accused persons and this fact is apparent from the FIR. The petitioner runs his vehicle on hire for payment and the co-accused persons hired his vehicle. He was not having any knowledge that the co-accused persons were carrying opium in their possession. Even during investigation, it has nowhere come on record that the petitioner was connected to the alleged recovery in any manner. The petitioner is in custody since 29.08.2021 and the charge-sheet has been submitted in this case. The petitioner has got clean antecedent.

Learned APP opposes the prayer for bail submitting that the recovery was made from co-accused persons sitting in the car of the petitioner. However, the learned APP concedes that the recovery has been made from the conscious possession of the two co-accused persons.

Perused the records.

Having regard to the submissions made hereinabove and considering the fact that the recovery has been shown from the co-accused persons and further considering the lack of



substantive material to show the connection of the petitioner with the alleged recovery or the other co-accused persons from whom the recovery is said to have been made and also considering the clean antecedent of the petitioner along with submission of charge-sheet and his period of custody, 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 Court, N.D.P.S. Act, Gaya in connection with Sohail P.S. Case No. 33 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be the deponent, who has sworn the affidavit.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) 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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