

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.65374 of 2021**

Arising Out of PS. Case No.-156 Year-2021 Thana- BETTIAH CITY District- West
Champaran

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SOHAN MAHTO Son of Late Vishnu Mahto Resident of Village- Nauranga
Bagh, Ward No.33 (Kothiya Patti), P.S.- Bettiah Town, District- West
Champaran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Vishwajeet Kumar Mishra, Advocate

For the Opposite Party/s : Ms.Anita Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 06-05-2022 Learned counsel for the petitioner undertakes to

remove all the defects as pointed out by office within four

weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Ms. Anita
Kumari, learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail
in connection with Bettiah Town P.S. Case No. 156 of 2021
registered for the offences punishable under Section 21(b) and
29 of the N.D.P.S. Act. He is in custody since 03.08.2021 having
one criminal antecedent as stated in paragraph '3' of the
application.

As per the prosecution story, the informant has
alleged that on 05.03.2021, he got secret information that some
accused persons are selling Smack in small packets from their



residential premises. Thereafter the informant with other officers raided the house of the petitioner and on search 56 puriya of Smack weighing 5.994 grams, aluminum paper and cash Rs. 58,970/- were recovered from the house of the petitioner. The informant further stated that one of the accused persons managed to flee away and one person was caught who disclosed that the person, who fled away, is his brother namely, Sohan Mahto (the petitioner) and disclosed that the petitioner used to bring Smack from Nepal and sell the same.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. Learned counsel submits that the alleged recovered contraband was not recovered from the conscious possession of the petitioner.

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

Having regard to the submission that in this case the alleged recovery of Smack is 5.994 grams which is muchless than the commercial quantity, the seizure has not been made from conscious possession of the petitioner as it is alleged that the seizure is from the house of the petitioner and according to the petitioner there are joint family members in the said house, the further submission that the petitioner had one criminal



antecedent but in the said case he has been acquitted and in connection with the present case he has remained in custody since 03.08.2021, investigation against him is complete and rigours of Section 37 of the N.D.P.S. Act is not attracted, his presence may be secured in course of trial, therefore this Court directs release of the petitioner above named on bail on furnishing of 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, West Champaran, Bettiah, in connection with Bettiah Town P.S. Case No. 156 of 2021, 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.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

