

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.70877 of 2021**

Arising Out of PS. Case No.-444 Year-2021 Thana- SARAIYA District- Muzaffarpur

Himalaya Kumar @ Chhotu Paswan, Son of Raja Paswan, Resident of Village Daudnagar, P.S. - Vaishali, District - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Amit Kumar Jha, Advocate

For the Opposite Party/s : Mr. Rabindra Kumar,A.G

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

3      11-10-2022                      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 DRI(N.D.P.S) Case No. 73 of 2021 Saraiya P.S. Case No. 444 of 2021 registered for the alleged offences under Sections 414 and 34 of the Indian Penal Code and Sections 25(1-b)a, 26 and 35 of the Arms Act and Section 20 and 22 of the N.D.P.S Act.

As per prosecution case, petitioner and two other co-accused persons were apprehended by the police when they were intercepted with their motorcycle. From the possession of



this petitioner, a loaded country made pistol with one live cartridge along with 10 purias (sachet) of smack were recovered. From the co-accused persons 10 purias each of smack were recovered. The total weight of the psychotropic substance was said to be 15-17 grams.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case and the allegedly recovered illegal fire arm is planted. Though, it has been stated that smack like substance was recovered from the possession of this petitioner, in absence of any chemical examination, it could not be said that the recovered substance is smack. There is even no clarity over weight of the psychotropic substance recovered from this petitioner as total weight of the substance is stated to be 15-17 grams but there is no explanation from whose possession what quantity has been recovered and how the allegedly recovered substance was weighed. Learned counsel further submits that the F.I.R. was registered on 21.06.2021, but the same was sent to the court of learned Special Judge on 23.06.2021 and this makes the prosecution case doubtful. Learned counsel further submits that the petitioner was going to his sister's house in Muzaffarpur and he was intercepted by the police during vehicle checking and the



petitioner showed the photocopies of documents of the vehicle but the police insisted on showing the originals and as the same was not produced, altercation took place and the petitioner was falsely implicated in this case. Charge sheet has been submitted in this case and the petitioner is in custody since 23.06.2021. Co-accused Ravi Kumar has been granted bail vide order dated 03.08.2022 passed in Cr. Misc. No. 16997 of 2022.

Learned APP for the State opposes the prayer for bail of the petitioner.

Having regard to the facts and circumstances and submission made on behalf of the parties and considering 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 8<sup>th</sup> Additional Sessions Judge-cum-Special Judge, NDPS, Muzaffarpur in connection with DRI (N.D.P.S) Case No. 73 of 2021, Saraiya P.S. Case No. 444 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 a close relative of the petitioner.



(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)**

Gautam/-

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