

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71459 of 2021

Arising Out of PS. Case No.-547 Year-2021 Thana- GOPALGANJ TOWN District-
Gopalganj

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GANESH CHAURASIYA Son of Late Sakaldeo Bhagat Resident of Village -
Sareya (Ward No.- 3), P.O. and P.S. and District - Gopalganj. ... Petitioner
Versus

THE STATE OF BIHAR Opposite Party

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Pandey No.5, Advocate
For the Opposite Party/s : Mr.Parmeshwar Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

2 09-03-2022 Heard learned counsel for the petitioner and learned APP
for the State.

Learned counsel for the petitioner is directed to remove
the defects, as pointed out by the Office, within a period of four
weeks.

The petitioner is apprehending his arrest in a case
registered under Sections 413, 414/34 of the Indian Penal Code and
8(c), 20(a), 22(b) and 22(c) of the N.D.P.S. Act.

The prosecution allegation, in short, is that 22.3 grams
smack, 11 grams of charas and 825 grams heroine are recovered.

It has been submitted on behalf of the petitioner that there
is no allegation of tampering of witnesses alleged against the
petitioner. The petitioner has falsely been implicated in the present
case. 22.3 grams of smack and 11 grams of charas are said to have
been recovered from co-accused which is less than commercial
quantity. Further 825 grams of heroine like substance is said to have
been recovered from a car. The car in question does not belong to the



petitioner. The name of the petitioner has transpired in this case on the basis of disclosure made by the co-accused. Except for this, there is no other substantive evidence to suggest implication of the petitioner in the present case. No recovery has been made from the conscious or constructive possession of the petitioner. There are reasonable grounds for believing that the petitioner is not guilty of such offence as alleged by the prosecution. Hence, Section 37 of N.D.P.S. Act will not be attracted against the petitioner in this case. There is no compliance of Sections 42 and 50 of the N.D.P.S. Act.

On behalf of the State, it is submitted that the petitioner is named in the F.I.R.

Considering the aforesaid facts and circumstances, let the petitioner, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned District & Sessions Judge, Gopalganj in connection with Gopalganj Town P.S. Case No. 547 of 2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sudhir Singh, J)

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