

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.438 of 2022

Arising Out of PS. Case No.-413 Year-2021 Thana- DIGHA District- Patna

KISHORE WILLIAM, Son of William Bapti Sah Resident of Village - Rajeev
nagar, Road No.23, P.s.- Rajeev nagar, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rashid Izhar

For the Opposite Party/s : Mr.Syed Ehteshamuddin, APP

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

4 11-04-2022 The applicant/accused in Crime No.413 of 2021
(Special Case No.85 of 2021), registered with Digha Police
Station for the offences punishable under Sections 22 of the
N.D.P.S. Act at the instance of first informant, Barun Kumar
Singh, by this application is seeking his release on bail during
the pendency of the trial.

Heard the learned counsel appearing for the
applicant/accused. Learned counsel for the applicant submits
that according to the prosecution case, heroin came to be seized
from three accused persons including the present applicant
individually and the Investigating Officer had weighed it jointly.
The weight came to 6 gram, i.e., one gram more than the small
quantity of heroin. It is further argued that the possession or the
contraband as per the prosecution case by the present applicant



is less than the small quantity. The learned counsel further argued that the chargesheet has been filed under Section 22 of the N.D.P.S. Act and the application has undergone more than eight months of pre-trial detention. He submits that the contravention involving small quantity of psychotropic drug is punishable only up to one year maximum and, therefore, the applicant is entitled for bail, as the trial is still pending.

The learned Prosecutor opposed the applicant by contending that the offence is serious in nature.

I have considered the submissions so advanced and also perused the material on record. Three accused persons were caught individually. From their possession, packets allegedly containing heroin came to be seized. From the applicant, 4 packets came to be seized whereas from two other co-accused, 9 packets came to be seized. Total weight of the contraband is shown as 6 grams. The small quantity of heron is 5 gram as per the notification. Therefore, prima facie it is apparent that the applicant, even if case of the prosecution accepted, was holding small quantity. He is under going pre-trial detention from 28.07.2021.

Considering the maximum punishment prescribed for the offence punishable under Section 22 of the N.D.P.S. Act, and



as the chargesheet has been filed in which it is reported that there is no report of criminal analysis of the seized article, I see no reason to refuse bail to the applicant and, therefore, the order:-

i. The application is allowed.

ii. The applicant/accused in Crime No.413 of 2021 (Special Case No.85 of 2021) registered with Digha Police Station for the offence punishable under Section 22 of the N.D.P.S. Act, be released on bail on executing P.R. bond of Rs.15,000/- Rupees Fifteen Thousand) on furnishing surety of the like amount to the satisfaction of the trial Court with the following conditions :-

(I) The applicant/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicant/accused shall cooperate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to the forfeited by the Court below.



(III) The applicant/accused should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV) The applicant should not repeat commission of similar offence in future and if he is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

The applicant to remove all office objections forthwith and Registry to issue bail-writ as per this order only after removal of office objections by the appellant/accused.

(A. M. Badar, J)

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