

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72392 of 2021

Arising Out of PS. Case No.-272 Year-2021 Thana- BAISI District- Purnia

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Rohit Kumar @ Nandu, Son of Late Vishwnath Singh, Resident of Village-
Nayatola (Bengali Tola), Mushahari Bellaury, P.S. - Sadar (Mufassil), District
- Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Praveen Kumar Agrawal, Advocate
Mr. Santosh Kumar Singh, Advocate
For the Opposite Party/s : Mr. Dr.Mrityunjaya Kr.Gautam, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 16-11-2022 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.

In the present case, the petitioner seeks bail in
connection with Baisi P.S. Case No. 272 of 2021 vide Special
(NDPS) Case No. 70 of 2021 registered for the alleged offences
under Sections 8(c) and 21(b) of the N.D.P.S Act.

As per prosecution case, during checking of vehicles
taken up in order to seize illicit liquor, petitioner and co-accused
were apprehended by the police while they were coming on a
motorcycle and from possession of this petitioner, 72 gm of smack
along with mobile phone were recovered.

Learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case. The petitioner has got no concern with the allegedly seized contraband which is less than the commercial quantity. The recovered contraband was not sealed at the spot nor it was tested for ascertaining its nature. There is non-compliance of Section 57 of the N.D.P.S Act and I.O. of the this case is not the authorized officer for the investigation of cases under the N.D.P.S. Act as he is below the rank of Inspector. Further, there is violation of Section 42 of the N.D.P.S Act. Charge sheet has been submitted without any chemical examination report. Since the seized articles were not sealed at the spot, there is possibility of tampering. Charge sheet has been submitted in this case and the petitioner is in custody since 20.09.2021. The petitioner has got no criminal history.

Learned APP for the State opposes the prayer for bail of the petitioner. Learned APP submits that the petitioner was caught red handed with 72 gm of smack.

Perused the records.

Having regard to the facts and circumstances and submission made on behalf of the parties and considering the quantity of recovered contraband which is less than the commercial quantity and further considering the period of custody

of the petitioner along with submission of charge sheet against him and also considering his clean antecedent, 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 Special Judge, N.D.P.S Act, Purnea in connection with Special Case No. 70 of 2021 (N.D.P.S. Act) arising out of Baisi P.S. Case No. 272 of 2021, subject to the 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/daya

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