

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.591 of 2022

Arising Out of PS. Case No.-34 Year-2020 Thana- BIHIA District- Bhojpur

Indu Bhushan Paswan @ Dadan Ram S/O Ram Bhajan Ray R/o village-
Dumra, P.S.- Koilwar, District- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate
	:	Mr. Prashant Kumar Singh, Advocate
For the State	:	Mr. Shailendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 30-08-2022 Heard learned senior counsel appearing on behalf of
the petitioner and learned APP appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Bihiya
P.S. Case No. 34 of 2020 registered for the offence under
Section 21(c) of the N.D.P.S. Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 20.08.2021.

The allegation against the petitioner is to have in
possession of heroin/brown sugar, whereafter a joint raid was
conducted by D.I.U. Team, Bhojpur and the police officers of
Bihiya police station, and recovered five packets, totalling to
295 grams of heroin, which was kept in polythene in the house



of co-accused, Dhurandhar Paswan.

Learned senior counsel appearing on behalf of the petitioner submitted that name of the petitioner surfaced on the basis of disclosure made by co-accused, namely, Dhurandhar Paswan and nothing incriminating recovered from the physical possession of the petitioner. It is submitted that forensic lab report is available, which shows that the recovered substance is '*Diazepam*' commercially known as '*Valium*', for which the commercial quantity is 500 grams. It is further submitted that considering the report of FSL, the recovered quantity appears to be less than commercial quantity, as such, the provision of Section 37 of the N.D.P.S. Act is not applicable in the present case. It is also submitted that provision of Section 50 of the N.D.P.S. Act, as regard to search upon a person, was also not complied in the present case. It is pointed out that co-accused, namely, Dhurandhar Paswan has already been granted bail by one of the learned Co-ordinate Bench of this Court through Cr. Misc. No. 30894 of 2020 dated 17.02.2021. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and, moreover, investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.



Learned APP appearing on behalf of the State, while opposing the prayer of bail, fairly conceded that FSL report shows that the seized substance is '*Diazepam*', where commercial quantity is 500 grams.

In view of the facts and circumstances as mentioned above, and considering the FSL report, where the recovered substance is '*Diazepam*', as such, the quantity alleged to be recovered is less than commercial quantity coupled with the fact that chargesheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Bihiya P.S. Case No. 34 of 2020 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-XI, Bhojpur at Ara/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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