

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6831 of 2023

Arising Out of PS. Case No.-450 Year-2022 Thana- GARDANIBAG District- Patna

Vikash Kumar S/O Mahendra Ray R/V- Yogiyatoli (TOLA), P.S.-
Gardanibagh, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramod Kumar, Advocate

For the Opposite Party/s : Mr.Dr.Mrityunjaya Kr.Gautam, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 03-05-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. In the present case, the petitioner seeks bail in connection with Gardanibagh P.S. Case No. 450 of 2022 (Special Case No. 144 of 2022) registered on 10.08.2022 for the alleged offences under Section 22(b) of the Narcotic Drugs and Psychotropic Substances Act.

3. As per prosecution case, police received information about petitioner and other co-accused persons selling Brown Sugar/Herion at an identified place. A raid was conducted and the petitioner and other co-accused persons were arrested and from the possession of this petitioner 2.88 gram of Brown Sugar/ Herion was recovered. From other accused



persons 5.88 gram of Brown Sugar was also recovered.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. Petitioner has no involvement in the occurrence as alleged and nothing incriminating has been recovered from the possession of this petitioner. There is no compliance of Section 50 of the NDPS Act. Learned counsel further submits that even if the allegation is taken to be true, no offence under Section 22(b) of the NDPS Act is made out against the petitioner rather the case would fall under Section 22 (a) of the NDPS Act. The recovery which has been shown from this petitioner is only 2.88 gram, that too, with paper containing the contraband and the same would come under the purview of small quantity. There is no compliance of Section 100(4) of Cr.P.C. Learned counsel further submits that co-accused Vikash Thakur has been granted bail by this Court vide order dated 19.04.2023 passed in Cr. Misc. No. 2193 of 2023 from whose possession recovery is of 4.05 gram of Brown Sugar/Herion. The petitioner is in custody since 11.08.2022 and charges have been framed against the petitioner. Petitioner is having clean antecedent.

5. Learned APP opposes the prayer for bail



submitting that the petitioner was caught red-handed selling Brown Sugar.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the quantity of Brown Sugar recovered from the petitioner and further considering his period of custody and framing of charges, 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 Additional Sessions Judge-IV, Patna in connection with Special Case No. 144 of 2022, arising out of Gardanibagh P.S. Case No. 450 of 2022, 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.



(iv) If any criminal antecedent of the petitioner would be found, his bail bond will not be accepted by the court concerned.

(Arun Kumar Jha, J)

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