

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3411 of 2023

Arising Out of PS. Case No.-1214 Year-2022 Thana- FORBESGANJ District- Araria

Md. Musa S/O Md. Tasir Resident of Village- Purbari Jhiruwa, Ward No.- 09,
P.S.- Simraha, District- Araria.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Prasad Singh, Advocate

For the Opposite Party/s : Mr. Brajendra Nath Pandey, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 04-07-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, if any, within
a period of four weeks from today.

Petitioner seeks bail who is in custody since
17.11.2022 in connection with Spl. NDPS Case No. 41 of 2022
arising out of Forbesganj P.S. Case No. 1214 of 2022, F.I.R.
dated 16.11.2022 for the offences punishable under Sections
21(b)/8/17(c)/18(c) of the N.D.P.S. Act.

Recovery is of 53.50 gms of Smack from the
possession of the petitioner.

Learned counsel for the petitioner submits that
petitioner is innocent and he has falsely been implicated in the



present case. He further submits that it appears from the F.I.R. as well as seizure list that altogether 53.50 gms of Smack has been recovered from the possession of the petitioner. He further submits that there is non-compliance of the mandatory provision of Sections 42 and 50 of the N.D.P.S. Act and it appears that the recovered contraband is less than the commercial quantity. Hence, there is no embargo under Section 37 of the N.D.P.S. Act for grant of bail to the petitioner. He further submits that without the F.S.L. report the prosecution had filed the charge sheet against the petitioner. He further submits that the F.S.L. report has come on 20.04.2023 but prior to that, the charge sheet has been submitted against the petitioner. He further submits that similarly situated co-accused, namely, Devendra Choudhary @ Devaram from whom 7.130 kg of doda powder has been recovered has been granted bail by the Co-ordinate Bench of this Court vide order dated 05.04.2023 passed in Cr. Misc. No. 4150 of 2023. He further submits that the police after investigation submitted the charge sheet against the petitioner. The petitioner is in custody since 17.11.2022.

The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner on the ground that the petitioner carries one more criminal antecedents



other than the present one.

Considering the aforesaid facts and circumstances and the fact that the recovered contraband is less than the commercial quantity, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge, Araria in connection with Spl. NDPS Case No. 41 of 2022 arising out of Forbesganj P.S. Case No. 1214 of 2022, subject to the following conditions:-

1. Petitioner shall co-operate 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 on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the



petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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