

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3861 of 2023

Arising Out of PS. Case No.-308 Year-2022 Thana- AAJAM NAGAR District- Katihar

Md. Iqbal @ Rais @ Md. Iqbal Rais s/o Md. Alauddin R/o Village-
Hariharpur, Ward No. 11, P.S.- Azamnagar (Salmari O.P.), Distt- Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Qumrul Hoda, Advocate

For the Opposite Party/s : Mr. Harendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 23-06-2023 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
15.09.2022 in connection with Azamnagar (Salmari O.P.) P.S.
Case No. 308 of 2022, F.I.R. dated 14.09.2022 for the offences
punishable under Sections 21(a)b and 22(a)(b) of the N.D.P.S.
Act and Section 30(a) of Bihar Prohibition and Excise Act,
2018.

Recovery is of 11.5 gm of heroin and 12.86 liters of
wine.

Learned counsel for the petitioner submits that



petitioner has clean antecedent 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 11.5 gm of Heroin and 12.86 liters of wine have 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 Section 100 of the Cr.P.C. He further submits 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 the police after investigation submitted the charge sheet against the petitioner. The petitioner is in custody since 15.09.2022.

The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner and submits that the F.S.L. report confirms that the recovered contraband is heroin.

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 Chief Judicial Magistrate, Katihar District- Katihar in connection with Azamnagar (Salmari O.P.) P.S. Case No. 308 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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