

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4743 of 2023

Arising Out of PS. Case No.-634 Year-2022 Thana- MOHANIYA District- Kaimur (Bhabua)

ISLAM MIAN @ ISLAM MIYA S/O GULAMAN MIAN R/v- Badi Bazar,
Mohania, P.S.- Mohania, District- Kaimur

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bhaskar Shankar, Adv.

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 20-06-2023 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

The petitioner seeks bail in connection with Mohania
P.S. Case No. 634 of 2022 dated 22.11.2022 registered for the
offence under Sections 8(c), 22(a) of the N.D.P.S. Act.

Recovery is of 3.85 grams of heroin.

Learned counsel appearing for the petitioner submits
that the petitioner is innocent and has falsely been implicated in
this case. He further submits that it appears from the F.I.R. itself
that total 14 packets of 3.85 gm including the weight of packet of
alleged heroin along with cash of Rs. 1500/-, a mobile phone are
said to been recovered from the possession of the petitioner. He
further submits that as per notification issued under the N.D.P.S.
Act, 1985, the small quantity of heroin has been specified as 5



grams, whereas the commercial quantity has been specified as 250 grams. In fact, in this case, the total recovery is of 3.85 gram as per seizure list, thus, it is apparent that the quantum of alleged heroin recovered from the possession of the petitioner is less than even the maximum limit of small quantity and the same does not fall within the purview of commercial quantity, hence, there is no bar for this Court to grant the privilege of bail to the petitioner. The petitioner is rotting in judicial custody since 23.11.2022.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner and submits that the petitioner carries three more cases other than the present one and he is on bail in all cases.

Considering the facts and circumstances of the case, let the, above named, petitioner 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 learned Sessions Judge -cum- Special Judge, Kaimur at Bhabua in connection with Mohania P.S. Case No. 634 of 2022 with 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/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled 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.

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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