

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6151 of 2023

Arising Out of PS. Case No.-8 Year-2021 Thana- EAST CHAMPARAN GRP CASE District-
East Champaran

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Dhiraj Kumar Patel @ Dhiraj Patel Son of Rajendra Patel Resident of Village-
Birganj, Ward No.-5, P.S.- Chauki Nagwa of Parsa, District- Nepal

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prateek Tandon, Advocate
For the Opposite Party/s : Mr. Bharat Lal, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

6 04-09-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Petitioner seeks bail who is in custody since
06.04.2021 in connection with NDPS Case No. 32 of 2021 (CIS
No. 32 of 2021) arising out of Raxaul P.S. Case No. 08 of 2021,
F.I.R. dated 04.04.2021 for the offences punishable under
Sections 8, 21(c), 22(c) of the N.D.P.S. Act.

3. Recovery is of Phenergan injection - 200 ml,
Noorphen injection – 400 ml and Diazepam injection – 400 ml.

4. 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 Phenergan injection -



200 ml, Noorphen injection – 400 ml and Diazepam injection – 400 ml 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. and the recovered injections does not come under the purview of the NDPS Act and without the F.S.L. report the police has filed the charge sheet against the petitioner. He further submits that the date of the F.S.L. report was 31.07.2023 and the charge has already been framed in the year 2021 itself. The results of the F.S.L. report are quoted as :

NOOPHIN is a pain killer used to treat moderate to severe pain.

DIAZEPAM is a sedative and psychotropic drugs and induces sleep when injected.

Promethazine is an antihistamine sometimes used as a sleeping pill,

The above results of the F.S.L. report does not supports the allegation as alleged in the F.I.R. and the petitioner is in custody since 06.04.2021.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner.

6. Considering the aforesaid facts and circumstances



and the period of custody and the fact that the F.S.L. report does not supports the allegation as alleged in the F.I.R, 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 12th Additional Sessions Judge cum Special Judge NDPS Act, East Champaran, Motihari in connection with NDPS Case No. 32 of 2021 (CIS No. 32 of 2021) arising out of Raxaul P.S. Case No. 08 of 2021, subject to the following conditions:-

i. 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.

ii. 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.

iii. 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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