

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12961 of 2023

Arising Out of PS. Case No.-191 Year-2022 Thana- MUZAFFARPUR SADAR District-
Muzaffarpur

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Suman Kumar Mishra S/O Late Raghuwendra Mishra R/V- Patahi, Airport,
Rasulpur, P.S.- Karja, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukund Mohan Jha
For the Opposite Party/s : Mr. Tapeswar Sharma

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 05-07-2023 Heard learned counsel appearing on behalf of the

petitioner and learned counsel appearing on behalf of the State.

It is submitted that permission be given to correct
defect as pointed out by the office regarding father's name of
petitioner.

Request allowed.

Same be corrected during the course of the day itself,
rest of the defect(s) as pointed out by the office may be ignored.

The petitioner seeks bail in connection with Sadar P.S.
Case No. 191 of 2022 registered for the offence under Section
21(b)/8(c) of N.D.P.S. Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 14.04.2022.



The allegation against this petitioner is to have in possession of 10 grams of contraband i.e., Smack alongwith other co-accused persons.

Learned counsel appearing on behalf of the petitioner submitted that the recovery of alleged contraband i.e., Smack not appears to be made from conscious physical possession of this petitioner and moreover, compliance of Section 50 of N.D.P.S. Act not appears to be followed as regard to search upon persons, which is otherwise a mandatory legal provision. It is submitted that as recovered quantity of contraband is less than commercial quantity therefore, implication of Section 37 of N.D.P.S. Act not appears applicable in present case. While concluding the argument, it has been submitted that petitioner is a man of clean antecedent and moreover, investigation of this case is completed, for which charge-sheet has already submitted, as such, there is no chance of tampering with the evidence.

Learned APP opposes the prayer of bail.

Considering the facts and circumstances as mentioned above, and by taking note of the fact as compliance of Section 50 of N.D.P.S. Act appears doubtful to be followed, where the recovered quantity of contraband is less than commercial



quantity, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 14.04.2022, accordingly the petitioner, above named, is directed to be released on bail in connection with Sadar P.S. Case No. 191 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge, 1st Muzaffarpur-cum-Special Judge, Muzaffarpur/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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