

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7505 of 2023

Arising Out of PS. Case No.-1152 Year-2022 Thana- PHULWARISHARIF District- Patna

SUDHIR KUMAR Son of Late Prem Paswan R/v- Hinduni, P.S.- Phulwari Sharif, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Narcotic Control Bureau, Patna Zoanl Unit, Patna, 800014 Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mirityunjay Kumar, Advocate
For the Opposite Party/s : Mr. Rajendra Prasad Nat, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 14-07-2023 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. Petitioner seeks bail, who is in custody since 21.09.2022 in connection with Phulwarisharif P.S. Case No. 1152 of 2022 (Spl. Case No. 178 of 2022), F.I.R. dated 21.09.2022 for the offences punishable under Sections 8(C), 21(B) of N.D.P.S. Act and under Section 414, 420/34 of the Indian Penal Code.

3. Recovery is of 2.69 gram like contraband as Brown Sugar from the left pocket of the petitioner.

4. Learned counsel for the petitioner submits that petitioner is innocent and he has falsely been implicated in the present case. He further submits that bare perusal of the F.I.R. as



well as seizure list that altogether 2.72 gram contraband as Brown Sugar and from one co-accused namely, Aman Kumar 2.89 grams contraband was recovered from the possession of the co-accused person. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and there is non-compliance of Section 50 of N.D.P.S. Act and without F.S.L. report the prosecution have submitted the charge sheet on 31.10.2022 and the F.S.L. report has come on 20.03.2023. He further submits that the recovered contraband is less than the commercial quantity but more than the small quantity. Hence, there is no embargo under Section 37 of the N.D.P.S. Act for grant of bail to the petitioner. The petitioner is in judicial custody since 21.09.2022.

5. The learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioner on the ground that petitioner carries one criminal antecedent other than the present one, in which petitioner is on bail.

6. Considering the aforesaid facts and circumstances, 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 Additional



Sessions Judge-XVIII/Successor Court, Patna in connection with Phulwarisharif P.S. Case No. 1152 of 2022 (Spl. NDPS Case No. 178 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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