

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10708 of 2023

Arising Out of PS. Case No.-51 Year-2022 Thana- SAHAR District- Bhojpur

Mantu Rai @ Ajit Kumar @ Mantu Ray, Son of Sri Mohan Rai, R/v- Baruhi,
P.S.- Sahar, District- Bhojpur, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravindra Kumar, Advocate

For the Opposite Party/s : Mr. Md. Mushtaque Alam, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 04-05-2023 Heard Mr. Ravindra Kumar, learned counsel

appearing on behalf of the petitioner and the learned APP for the

State.

The petitioner seeks regular bail, who is in custody in connection with Sahar P.S. Case No. 51 of 2022 registered for the offence punishable under Sections 21(b) and 29 of the N.D.P.S. Act, 1985.

The police on a secret information regarding the sell of narcotic contraband, conducted raid and apprehended one ‘Kushmesh Ray’ and on search, 8.97 grams heroin like substance was recovered. The apprehended co-accused ‘Kushmesh Ray’ disclosed that he has purchased this contraband from this petitioner.

Submission has been made on behalf of the petitioner



that the petitioner was neither apprehended at spot nor any incriminating material has been recovered from his person or possession, save and except the disclosure made by the apprehended person before the police, which is hit by Section 25 and 26 of the Evidence Act, 1872. It is next submitted that the petitioner has never been involved in any of the case connected with N.D.P.S. Act, however, he has one criminal antecedent being Ara Nawada P.S. Case No. 68 of 2005 for the offences punishable under Sections 392 and 411 of the Indian Penal Code, on which the petitioner is on bail. He next submitted that the reason of the false implication of the petitioner is animity between the family of 'Kushmesh Ray' with the family of the petitioner. He lastly submits that now the petitioner is in custody since 04.01.2023 and the charge-sheet has been submitted and, moreover, the co-accused 'Kushmesh Ray' has already been allowed the privilege of bail by the learned co-ordinate Bench of this Court in Cr. Misc. No. 35597 of 2022 vide order dated 16.09.2022.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the name of the petitioner has been disclosed by the apprehended co-accused person.



Regard being had to the submissions made on behalf of the parties and considering the fact that the person on whose disclosure the name of the petitioner has transpired has already been allowed the privilege of bail and neither the petitioner was apprehended at spot nor any incriminating material has been recovered from his possession, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned District and Sessions Judge, Bhojpur, Ara in connection with Sahar P.S. Case No. 51 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.



(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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