

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13515 of 2023

Arising Out of PS. Case No.-194 Year-2022 Thana- TATARPUR District- Bhagalpur

=====

Ajay Kumar Sah, Son of Late Om Prakash Sah, R/o Alamganj, Ramdev Sah
Lane, Gullabibaag, P.S.- Babarganj, District- Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Ms. Pallavi Pandey, Advocate

For the Opposite Party/s : Mr. Ahmad Ali, APP

=====

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

2 16-05-2023 The applicant/accused in Crime No.194 of 2022

registered with Tatarpur Police Station for the offence

punishable under Sections 20 and 22 of the N.D.P.S. Act, by this

application is seeking his release on bail during the pendency of

the trial, after filing of the charge sheet.

The learned counsel for the applicant argued that case

in hand is that of a blatant violation of mandatory provisions of

Section 50 of the N.D.P.S. Act as no option for personal search

as envisaged by that Section was given to the applicant. It is

further argued that the applicant is having clean antecedent and

as such he deserves to be released on bail.

The learned Additional Public Prosecutor opposed

the application by contending that the applicant was found in

possession of intermediate quantity of heroin and as such the



application deserves to be rejected.

I have considered the submissions so advanced. I have also perused the relevant materials placed on record.

The crime in question is registered on the basis of report lodged by Police Officer Sunil Kumar Jha. He reported that on the basis of secret prior information regarding dealing in brown sugar by co-accused Rishi Kumar Singh, he conducted raid at open ground and found several young persons standing in the corner of that ground. The First Informant further reported that the police party was successful to apprehend seven persons, the applicant being one amongst them. According to the prosecution case, on personal search of the applicant, brown sugar weighing 10 grams came to be seized.

It is seen that the seizure is in respect of intermediate quantity. Provisions of Section 50 of the N.D.P.S. Act seems not to be followed by the Investigator. No effective option for getting the person of the applicant search in presence of the Executive Officer or the Magistrate was given to him. The quantity being intermediate, rigorous of Section 37 of the N.D.P.S. Act is not applicable to the case in hand. The applicant is reported to be a person with clean antecedent. He is already undergoing pre-trial detention from 17.08.2022. Hence, I see no



reason to refuse the bail and, therefore, the following orders:-

(i). The application is allowed.

(ii). The applicant/accused in Crime No.194 of 2022 registered with Tatarpur Police Station for the offence punishable under Sections 20 and 22 of the N.D.P.S. Act, be released on bail on executing P.R. Bond of Rs.20,000/- (Rupees Twenty Thousand) and on furnishing two sureties of the like amount each to the satisfaction of the Trial Court with the following conditions :-

(I) The applicant/accused should cooperate the Trial Court in expeditious disposal of the trial against him.

(II) The applicant/accused should not repeat commission of similar offence in future and if he is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

(A. M. Badar, J)

Saurabhkrsinha/
Aditi/-

U		T	
---	--	---	--

