

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11742 of 2023

Arising Out of PS. Case No.-397 Year-2021 Thana- PATRAKARNAGAR District- Patna

Chandan Kumar S/O Kamlesh Prasad R/v- Gandhinagar Kanti Factory Road,
Kankarbagh, P.S.- Patrakarnagar, Patna Permanent residence- Illahibag
Bairiya, P.S.- Gopalpur, District- Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs.Prabha Mishra, Advocate

For the Opposite Party/s : Mr.Raj Ballabh Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 22-03-2023 Heard learned counsel for the petitioner and learned
APP for the State.

This is the second attempt of the petitioner seeking
bail from this Court. Earlier the prayer for bail of the petitioner
was rejected vide order dated 03.08.2022 passed in Cr. Misc.
No. 16027 of 2022.

In the present case, the petitioner seeks bail in
connection with Special Case No. 83 of 2021, arising out of
Patrakar Nagar P.S. Case No. 397 of 2021 registered for the
alleged offences under Sections 22(b) and 27A of the Narcotic
Drugs and Psychotropic Substances Act, 1985.

The allegation against the petitioner is that he was



apprehended with 10 grams of brown sugar (heroin).

The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case as no recovery has been made from his conscious possession. There is clear violation of mandatory provision of Section 50 of the NDPS Act. The petitioner was not apprised about his right to be searched before the Gazetted Officer or the Magistrate. The seizure list carries the police station case number at the top and this shows the seizure list was not prepared at the place of occurrence rather the seizure list was prepared at the police station. The charge sheet has been submitted in this case without any chemical examination report of the seized substance and so there is no evidence on record to show that the seized substance is brown sugar. No case under Section 22(b) or Section 27A of the NDPS Act is made out against the petitioner. Learned counsel further submits that the petitioner was granted liberty to renew his prayer for bail, if the trial was not concluded within a period of six months. Learned counsel further submits that the trial has not proceeded any further since the FSL report has not been brought on record till date. The petitioner has no criminal antecedent and he is in custody since 27.07.2021.



Learned APP opposes the prayer for bail submitting that the petitioner was caught red handed with more than of the small quantity of heroin and he has been indulging in illicit trade of narcotic drugs.

Perused the records.

Having regard to the submissions made hereinabove and further considering the fact that it appears that there is no likelihood of trial being concluded in near future, submission of charge sheet and the period of custody of the petitioner, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-XIII, Patna/ Court concerned in connection with Special Case No. 83 of 2021, arising out of Patrakar Nagar P.S. Case No. 397 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates



or in violation of the terms of the bail, the bail
bond of the petitioner will be liable to be
cancelled by the court concerned.

(Arun Kumar Jha, J)

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