

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12391 of 2023

Arising Out of PS. Case No.-161 Year-2022 Thana- DHAMDAHA District- Purnia

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PRIYAM KUMAR @ PRITAM KUMAR Son of Anil Choudhary Resident of
village - Telghi, P.S.- Kharik, District - Naugachia Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sujit Kumar Singh, Adv.

For the Opposite Party/s : Mr.Dilip Kumar No.1, APP

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 11-05-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Petitioner apprehends his arrest in connection with
Dhamdaha P.S. Case No.161 of 2022, registered for the offence
punishable u/s 21(b), 25 and 26 of the Narcotic Drugs and
Psychotropic Substance Act 1985 (N.D.P.S.) Act.

As per the prosecution case, police intercepted one
motorcycle and apprehended a person with 10.5 Gram
Heroin/Smack and the said person disclosed that the said
contraband has been given by one Mantu Kumar Singh to
deliver the same to the petitioner.

It is submitted by learned counsel for the petitioner that
petitioner is quite innocent and has committed no offence. He
has been falsely implicated in this case. No such occurrence, in



the manner as alleged, has ever taken place. The allegation leveled against the petitioner is not specific rather general and omnibus in nature. Name of petitioner transpired in this case on the basis of statement of the apprehended accused Ravi Kumar but the petitioner was not seen on the spot. No incriminating article has been recovered from the conscious physical possession of the petitioner. The said Ravi Kumar has already been granted regular bail by a co-ordinate Bench of this Court vide order dated 14.03.2023 passed in Cr. Misc. No.67819 of 2022 after considering that the alleged recovery of contraband i.e. smack like substance is less than commercial quantity. It is further submitted that the recovered contraband appeared to be less than the commercial quantity, as such, section 37 of the N.D.P.S. Act is not applicable against the petitioner. Petitioner has no criminal antecedent.

Learned APP for the State opposed the prayer for bail.

Having regard to the facts and circumstances of the case and considering the nature of allegation, I am not inclined to enlarge the petitioner on bail. The prayer for grant of anticipatory bail on his behalf is hereby rejected.

This application is accordingly dismissed.

However, petitioner is at liberty to surrender before the



learned court below within a period of six weeks from today and seek regular bail and the learned Court below would pass order, preferably, on the same day, in accordance with law, considering that no contraband article has been recovered from the conscious physical possession of the petitioner and on-spot apprehended accused has been granted regular bail by a co-ordinate Bench of this Court.

(Anjani Kumar Sharan, J)

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