

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13555 of 2023

Arising Out of PS. Case No.-770 Year-2022 Thana- MANER District- Patna

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Kaushal Kumar @ Kaushal Kishor Son Of Late Manohar Ray R/O Village-
Mahinawa, Ratan Tola, P.S.- Maner, District- Patna, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravi Kant Kumar, Advocate

For the Opposite Party/s : Mr. Anand Kishore Choudhary, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 20-07-2023 Heard learned counsel appearing on behalf of the

petitioner and learned APP appearing on behalf of the State.

2. The petitioner seeks bail in connection with Maner
P.S. Case No. 770 of 2022 registered for the offence under
Sections 8(c), 20-B and 21 of the N.D.P.S. Act.

3. The accused/petitioner is named in the F.I.R. and is
in custody since 21.10.2022.

4. The allegation against the petitioner is to have in
possession of contraband i.e., smack, total of 14.9 grams which
were in 26 sachets.

5. Learned counsel appearing on behalf of the
petitioner submitted that the alleged recovery of the contraband
i.e., smack, not appears to be made from the conscious physical



possession of this petitioner. It is also submitted that compliance of mandatory provisions of Section 50 of the N.D.P.S. Act regarding search upon person not appears to be followed in present case. It is further submitted that as alleged recovery of contraband i.e., smack is less than commercial quantity, therefore implication of Section 37 of the N.D.P.S. Act not appears applicable in the present case. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case has been completed, for which, charge-sheet has already submitted, as such, there is no chance of tampering with the evidence.

6. Learned APP appearing on behalf of the State, opposes the prayer for bail.

7. In view of the facts and circumstances as mentioned above and taking note of the fact as compliance of Section 50 of the N.D.P.S. Act not appears to be followed, *prima facie*, in the present case, where recovered quantity is less than commercial quantity, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 21.10.2022, accordingly petitioner, above named, is directed to be released on bail in connection with Maner P.S. Case No. 770 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten



Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-IV Patna, Patna/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J.)

S.Tripathi/-

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