

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16745 of 2023

Arising Out of PS. Case No.-411 Year-2022 Thana- KASBA District- Purnia

MD. AKHLAK @ AKHLAK ALAM S/O MD. MUSLIM R/v- Buriya
Akhtiyarpur, P.S.- Sarsi, District- Purnia

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N.K.Agrawal, Sr. Adv.

Mr. Dr. Bidhu Ranjan, Adv.

For the Opposite Party/s : Mr. Syed Mojibur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

- 5 07-08-2023 1. Heard Mr. N.K. Agrawal, learned Senior counsel
for the petitioner and learned Additional Public Prosecutor for
the State.
2. Petitioner seeks bail, who is in custody since
09.01.2023, in connection with Kasba P.S. Case No. 411/2022,
F.I.R. dated 12.12.2022, for the offences punishable under
Sections 8C/21C, 25 of the N.D.P.S. Act.
3. According to prosecution case, total 440 gram of
brown sugar have been recovered from the co-accused, namely,
Md. Azhar.
4. Learned counsel for the petitioner submits that
petitioner has falsely been implicated in the present case. He
further submits that from bare perusal of the F.I.R. as well as



seizure list, it appears that nothing has been recovered from conscious possession of the petitioner rather the recovery has been made from the co-accused, namely, Md. Azhar. He further submits that on the confessional statement of the co-accused namely Md. Azhar, the name of the petitioner has falsely been implicated in the present case and Md. Azhar has stated in his statement that he has received the aforesaid contraband 440 gram of brown sugar from the petitioner and there is non-compliance of Section 50 of the N.D.P.S. Act.

5. Learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for bail of the petitioner and submits that the F.S.L. report also confirms that the recovered contraband is Morphin (Heroin), which is more than the commercial quantity. He further submits that apart from that the petitioner has also carried one case of similar nature other than the present one.

6. The grant of bail in NDPS cases where the recovery of commercial quantity of narcotic is alleged is circumscribed under Narcotic Drugs and Psychotropic Substances Act, 1985, Section 37 which says that before grant of bail, the Court must have reason to believe that petitioner has not committed the offence and in the event of release he would not commit similar



offence.

7. The issue was considered by the Hon'ble Supreme Court in the case of **State of Kerala and Ors Vs. Rajesh & Ors**, reported in **2020 (12) SCC 122**, **Narcotic Control Bureau Vs. Mohit Aggarwal**, reported in **AIR 2022 SC 3444** and **SLP (CRL) No.2351 of 2023 (Union of India Vs. Ajay Kumar Singh @ Pappu)** dated 28.03.2023.

8. The recovery of huge quantity of Morphin (Heroin) from possession of the petitioner would not justify that the petitioner had no knowledge of the narcotic nor there is any material to substantiate that the petitioner would not commit such offence in the event of release. Hence, I am not inclined to enlarge the petitioner on bail in connection with Kasba P.S. Case No. 411/2022 pending in the court of learned Special Judge, N.D.P.S. Act, Purnea.

9. Prayer is refused.

(Rajesh Kumar Verma, J)

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