

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17209 of 2023

Arising Out of PS. Case No.-349 Year-2022 Thana- NAUGACHIA District- Bhagalpur

Manish Kumar Paswan Son of Sikandar Paswan Resident of Village-Dhodiya
Dadpur, P.S.-Kharik, District-Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha, Advocate

For the Opposite Party/s : Mr. Prem Kumar Jha, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 26-07-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. Petitioner seeks bail, who is in custody since 10.11.2022, in connection with Naugachia P.S. Case No. 349 of 2022, F.I.R. dated 09.11.2022 registered for the offences punishable under Sections 8/17B/22B of Narcotic Drugs and Psychotropic Substances Act.

3. The case relates to recovery of 170 Grams of *Smack*, one mobile phone and one motorcycle.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has been falsely implicated in the present case. He further submits that from a bare perusal of the F.I.R. as well as seizure list that altogether 170 Grams of contraband was recovered from the possession of



co-accused persons namely Rajan Singh @ Monu, Manish Kumar and the petitioner. He further submits that only 70 Grams of Smack like substance was recovered from the possession of the petitioner and apart from contraband one mobile phone and one motorcycle were also recovered from the possession of the petitioner. He further submits that there is non compliance of Section 50 of the N.D.P.S. Act and without FSL report the prosecution has filed the chargesheet agaisnt the petitioner and the recovered contraband is less than the commercial quantity and hence there is no embargo under Section 37 of the N.D.P.S. Act to enlarge the petitioner on bail. The petitioner is in custody since 10.11.2022.

5. Learned APP for the State, on the other hand, vehemently opposed the prayer for bail of the petitioner and submits that the FSL report confirms that the recovered contraband is *Morphin* but fairly submits that it appears from the FSL report that it was submitted on 28.03.2023 and prior to the FSL report chargesheet has been submitted by the prosecution.

6. Considering the facts and circumstances of the case, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five



Thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge, Bhagalpur, in connection with Naugachia P.S. Case No. 349 of 2022, with the following conditions :-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(2) If the petitioner tampers with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedents, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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