

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21047 of 2023

Arising Out of PS. Case No.-505 Year-2022 Thana- MANER District- Patna

Chhotu Kumar @ Chhottu Kumar Son Of Late Sudhir Kumar Singh R/O
Village- Mahinawa Bazar, P.S.- Maner, District- Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravindra Kumar, Advocate

For the Opposite Party/s : Mr.Ram Sumiran Rai, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 22-05-2023 Heard learned counsel for the petitioner and
learned APP for the State.

2. In the present case, the petitioner seeks bail in connection with Special Case No. 117 of 2022, arising out of Maner P.S. Case No. 505 of 2022 registered on 19.07.2022 for the alleged offences under Sections 8(c)/20(b)/21/27 of the NDPS Act.

3. As per prosecution case, police received information about petitioner selling smack from his house and a raid was conducted. Petitioner and co-accused persons were apprehended and from the possession of petitioner 40 sachets of smack weighing 32 gms kept in a black coloured polythene



were recovered and sale proceeds of the smack amounting to Rs. 21,500/- was also recovered. From co-accused Dinanath Mahto 5 sachets of smack weighing 4 gms were recovered.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. No occurrence as alleged has ever taken place. From the FIR, it is apparent that police has got prior information but the same was not forwarded to any immediate superior officer nor any Sanha has been registered and thus, mandatory provisions of Sections 42(1) and 42(2) of the NDPS Act were violated. There is no independent witness of search and seizure and thus there is violation of Section 100 of the Cr.P.C. Learned counsel further submits that even weighing of the seized contraband is doubtful as the informant has not disclosed about the nature of weighing machine and has not mentioned the correct measurement of weight in grams and miligrams which raises serious doubt regarding the quantity of the alleged contraband. Moreover, the quantity of alleged seized contraband is much less than commercial quantity. There is no FSL report and charge sheet has been submitted without the same. The petitioner is in custody since 19.07.2022 and charge sheet has been submitted. The



petitioner has got no criminal history.

5. Learned APP opposes the prayer for bail submitting that the recovery has been made from the petitioner, who has been selling smack and sale proceeds were also recovered.

6. Having regard to the facts and circumstance and submissions made on behalf of the parties and considering the period of custody of the petitioner with clean antecedent and submission of charge-sheet, the petitioner above named is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-XVI, Patna/concerned court in connection with Special Case No. 117 of 2022, arising out of Maner P.S. Case No. 505 of 2022, 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 bonds of the petitioner will be liable to be
cancelled by the court concerned.

(Arun Kumar Jha, J)

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