

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27819 of 2023

Arising Out of PS. Case No.-1356 Year-2022 Thana- PHULWARISHARIF District- Patna

MD. JAVED SON OF MUMTAZ ALAM RESIDENT OF VILLAGE -
KARBALA ROAD, C.D. MARRIAGE HALL, P.S. - PHULWARISHARIF,
DISTT. - PATNA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Pandey, Adv.

For the Opposite Party/s : Mr. Pawan Kumar Chaurasia, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 31-08-2023 1. Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State.

2. Petitioner, who is in custody since 05.11.2022 seeks bail, in connection with Special N.D.P.S. Case No.06/2023, arising out of Phulwarisharif P.S. Case No. 1356/2022, dated 04.11.2022, for the offences punishable under Sections 22(b) of N.D.P.S. Act.

3. According to prosecution case, altogether 23.86 grams of brown sugar has been recovered from the possession of the petitioner and other co-accused persons.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that from



perusal of the F.I.R., it appears that 2.96 gram of smack has been recovered from the possession of the petitioner and altogether 23.86 grams of brown sugar has been recovered from the possession of the petitioner and other co-accused persons. There is non-compliance of Section 42 and 50 of the N.D.P.S. Act. He further submits that the recovered contraband is less than the commercial quantity, so, there is no embargo under Section 37 of the N.D.P.S. Act to enlarge the petitioner on bail. He further submits that co-accused, namely, Md. Aftab has been granted bail by a co-ordinate Bench of this Court vide order dated 14.07.2023 passed in Cr. Misc. No.41691/2023, co-accused namely, Md. Sameer has been granted bail vide order dated 21.07.2023 passed in Cr. Misc. No.39868/2023, co-accused namely Md. Tipu has been granted bail vide order dated 21.07.2023 passed in Cr. Misc. No.39280/2023 and co-accused namely Md. Sonu has been granted bail vide order dated 25.05.2023 passed in Cr. Misc. No.24078/2023. He further submits that the police after investigation submitted the charge sheet against the petitioner and the petitioner is in custody since 05.11.2022.

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 Morphine.

6. Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned A.D.J.-IV, Patna in connection with Special (NDPS) Case No.6/2023, arising out of Phulwarisharif P.S. Case No.1356/2022, subject to 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 witnesses, 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 antecedent, 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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