

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21564 of 2023

Arising Out of PS. Case No.-59 Year-2023 Thana- NAGAR District- Vaishali

ANIL KUMAR S/O LATE RAKESH CHOUDHARY Resident of Village-
Umesh Cinema Road, Hajipur, P.S.- Hajipur Sadar, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shanti Bhushan Singh, Adv.

For the Opposite Party/s : Mr. Shyam Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 13-07-2023 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

The petitioner seeks bail in connection with Hajipur
Town P.S. Case No. 59 of 2023 registered for the offence under
Sections 8(C), 21(b) and 22 of the N.D.P.S. Act.

Recovery is of 22.26 gram of smack.

Learned counsel appearing for the petitioner submits
that the petitioner is innocent and has falsely been implicated in
this case. He further submits that it appears from the F.I.R. itself
that out of 22.26 gram of smack, 11.400 gram is alleged to have
been recovered from the possession of the petitioner and 10.860
grams of smack is alleged to have been recovered from the
possession of the co-accused, Adarsh Raj @ Adarsh Raj Chauhan.
He further submits that there is non-compliance of Section 50 of



the N.D.P.S. Act. He also submits that rigors of Section 37 of the NDPS act does not apply in this case as the alleged recovery does not fall within the purview of commercial quantity being it more than small quantity, hence, there is no bar for this Court to grant the privilege of bail to the petitioner. Moreover, co-accused, Adarsh Raj @ Adarsh raj chauhan having more or less similar allegation has already been granted bail by a co-ordinate Bench of this Court vide order dated 24.05.2023 passed in Cr. Misc. No. 26885 of 2023. He further submits that the police after investigation has submitted charge-sheet in this case against the petitioner. The petitioner is rotting in judicial custody since 25.01.2023.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner and submits that the petitioner carries one more case other than the present one.

Considering the facts and circumstances of the case, let the, above named, petitioner 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 learned Sessions Judge, Vaishali at Hajipur in connection with Hajipur Town P.S. Case No. 59 of 2023 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/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled 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.

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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