

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22909 of 2023

Arising Out of PS. Case No.-700 Year-2021 Thana- MAHUA District- Vaishali

SAKALDEO RAI @ SAKALDEO RAY @ SAKAL DEV RAY S/O
KHAYALI RAI Resident of Village- Mahua Singh Rai, Ward No.- 1, P.S.-
Mahua, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravish Mishra

For the Opposite Party/s : Mr.Shyam Bihari Singh

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 17-05-2023 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The petitioner seeks bail in connection with Mahua
P.S. Case No. 700/2021(A) registered for the offences
punishable under Sections 8, 20(b)(B) 25, 29 of the N.D.P.S.
Act.

As per prosecution case, there is alleged recovery
of total 64.370 gram smack like substance from the house of co-
accused Lalita Devi which was kept in sachet and the name of
present petitioner has been told by apprehended co-accused
Lalita Devi who disclosed that he along with other co-accused
was involved in sale-purchase of smack.

Learned counsel for the petitioner submits that



petitioner is quite innocent and has committed no offence whatsoever alleged in the FIR. Petitioner is in custody since 26.11.2022 as mentioned in the impugned order and bears no criminal antecedent. He further submits that nothing has been recovered from conscious possession of the petitioner and except disclosure of co-accused Lalita Devi, there is nothing on record to connect the present petitioner with the alleged occurrence. He further submits that Section 50(6) of the NDPS Act has not been followed in its letter and spirit. Section 57 of the NDPS Act has also been discarded as the informant has failed to inform his immediate superior officer about the factum of seizure and arrest of the petitioner within forty eight hours. He further submits that contraband Smack comes under the purview of Heroin and small quantity of Heroin is 5 gm and commercial quantity is 250 gm. There is recovery of 64.370 gram smack like substance which comes under intermediary quantity. Hence, rigors and containment of Section 37 of the NDPS Act is not attracted in the present case. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.



Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of petitioner, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, 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 Additional Sessions Judge-1, Vaishali at Hajipur in connection with Mahua P.S. Case No. 700/2021(A), subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) 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.

(iv) If the petitioner is found involved in similar



nature of offences in future, the learned trial court shall be at
liberty to cancel his bail bond.

(Alok Kumar Pandey, J)

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