

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23309 of 2023

Arising Out of PS. Case No.-564 Year-2022 Thana- PHULWARISHARIF District- Patna

Md. Sameer @ Babby @ Bobby Son Of Nasim Babarchi @ Mohammad
Nasim Resident Of Village Isanagar, Naya Tola Police Station
-PHULWARISHARIF , District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Union Of India Through Narcotics Control Bureau, Government Of India India

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravi Shanker Pankaj
For the Opposite Party/s : Mr.Ram Priya Sharan Singh

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 27-07-2023 Heard learned counsel for the petitioner and learned
APP for the State.

Petitioner seeks bail, who is in custody since 27.05.2022, in connection with Special Case No. 76 of 2022 corresponding to NDPS Case No. 98 of 2022 arising out of Phulwarisharif P.S. Case No. 564 of 2022, F.I.R. dated 25.05.2022 registered for the offences punishable under Sections 8(c)/21(b) of Narcotic Drugs and Psychotropic Substances Act.

The case relates to recovery is of 6.63 Grams of *Heroin*.

Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in the



present case. He further submits that it appears from the F.I.R. as well as seizure list that altogether 6.64 Grams of *Heroin* was recovered from the possession of the petitioner. He further submits that without FSL report the prosecution has filed the chargesheet against the petitioner. He further submits that the FSL report is dated 22.10.2022 and the chargesheet has been submitted on 13.07.2022, after filing of the chargesheet FSL report has come and the recovered contraband is less than the commercial quantity and hence there is no embargo of Section 37 of the N.D.P.S. Act to enlarge the petitioner on bail. The petitioner is in custody since 27.05.2022.

Learned APP for the State, on the other hand, vehemently opposed the prayer for bail of the petitioner and submits that the petitioner carries one more case other than the present one relating to similar nature of NDPS matter.

Considering the facts and circumstances of the case, let the petitioner, above named, be released on bail, **after framing of charge, if not framed as yet**, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-XXV, Patna in connection with Special Case No. 76 of 2022 corresponding to NDPS Case No. 98 of 2022 arising out of Phulwarisharif P.S. Case No. 564 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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