

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23597 of 2023

Arising Out of PS. Case No.-788 Year-2021 Thana- AHIYAPUR District- Muzaffarpur

DHEERAJ KUMAR S/O LATE SURENDRA SAHANI R/O Village- Dadar,
P.S- Ahiyapur, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar @ S.K.

For the Opposite Party/s : Mr. Anant Kumar 1, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 17-05-2023 Heard learned counsel for the petitioner and learned
APP for the State.

Petitioner seeks bail, who is in custody since
12.11.2021, in connection with N.D.P.S. Case No. 03 of 2022,
arising out of Ahiyapur P.S. Case No. 788 of 2021, F.I.R. dated
11.11.2021 registered for the offences punishable under Sections
8(c)/21(b) of the N.D.P.S. Act.

The case relates to recovery of 20 gram of *Smack*.

Earlier the bail petition of the petitioner was rejected
vide order dated 26.09.2022 passed in Cr. Misc. No. 27821 of
2022.

Learned counsel for the petitioner submits that the
petitioner has clean antecedent 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 44 purias of



smack weighing 20 grams as well as some mobile was recovered from the possession of the petitioner. Learned counsel for the petitioner further submits that till date the prosecution has not examined any witness and the petitioner is in custody since 12.11.2021.

Vide order dated 12.04.2023, a report was called for with regard to the stage of the trial. The report of the learned Trial court dated 09.05.2023 reveals that charge has been framed against the petitioner on 08.05.2023 and the case is pending for examination of prosecution witnesses.

Learned counsel for the petitioner submits that in view of the report of the learned Trial court, the trial is not concluded in near future and the recovered contraband is less than the commercial quantity and hence there is no embargo under Section 37 of the ND.P.S. Act for grant of bail to the petitioner.

Considering the aforesaid facts that the petitioner is in custody since 12.11.2021 as well as the prosecution has not examined any witness, 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 2nd Additional Sessions



Judge, Muzaffarpur in connection with N.D.P.S. Case No. 03 of 2022 arising out of Ahiyapur P.S. Case No. 788 of 2021, 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 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.

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(Rajesh Kumar Verma, J)

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