

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25730 of 2023

Arising Out of PS. Case No.-174 Year-2022 Thana- ADAPUR District- East Champaran

RAJ KUMAR SAH Son of Chandrika Sah Resident of Village -
Raghunathpur, P.S.- Raghunathpur (O.P.), District - East Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar No.Iii

For the Opposite Party/s : Mr.Pranav Kumar

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 28-07-2023 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

2. The petitioner seeks bail in connection with Adapur
P.S. Case No. 174 of 2022 registered for the offence under
Sections 399 and 402 of the Indian Penal Code, under Sections
25(1-b)a, 26 and 35 of the Arms Act and under Sections 8(c)
and 21(b) of the N.D.P.S. Act.

3. The accused/petitioner is named in the F.I.R. and is
in custody since 10.06.2022.

4. The allegation against the petitioner is to involve in
preparation for committing dacoity alongwith other co-accused
persons and while preparing so found in possession of 95 grams
of brown sugar like substance.

5. Learned counsel appearing on behalf of the



petitioner submitted that mere on the recovery of brown sugar like substance, petitioner cannot be implicated with present allegation for which a different legal ingredients are required to established a, *prima facie*, case regarding preparation for committing docoity. It is fairly conceded that from report of Centre Forensic Science Laboratory (CFSL), it appears that substances which appears recovered from this petitioner found *ketamine*, which is also a scheduled drug prohibited under N.D.P.S. Act, where commercial quantity is of 500 grams and smaller quantity is of 10 grams. It is submitted that as present recovery is from possession of this petitioner, where compliance of provision of Section 50 of the N.D.P.S. Act, 1985 not appears to be followed. It is also pointed out that as recovered quantity is less than commercial quantity, therefore, implication of rigorous provision of Section 37 of the N.D.P.S. Act not appears to be applicable in present case. While concluding the argument, it has been submitted that petitioner is a man of clean antecedent and moreover, investigation of this case has been completed, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

6. Learned APP opposes the prayer of bail.

7. Considering the facts and circumstances as



mentioned above and by taking note of the fact as compliance of Section 50 of the N.D.P.S. Act, *prima facie*, not appears to be followed in present case, where recovered quantity is less than commercial quantity coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 10.06.2022, accordingly, above named petitioner is directed to be released on bail in connection with Adapur P.S. Case No. 174 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-5, East Champaran, Motihari/concerned court, subject to the conditions as mentioned under Section 437 (3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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