

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16513 of 2023

Arising Out of PS. Case No.-698 Year-2022 Thana- BIHTA District- Patna

Shubham Kumar Son Of Pintu Kumar Resident Of Village- Ajama P.S-
Nauwatpur, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 29908 of 2023

Arising Out of PS. Case No.-698 Year-2022 Thana- BIHTA District- Patna

Atul Raj S/O Manoj Kumar R/O Village- Parsa, P.S- Naubatpur, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 16513 of 2023)

For the Petitioner/s : Mr. Rajesh Roy, Advocate

For the Opposite Party/s : Mr. Akbar Ali, APP

(In CRIMINAL MISCELLANEOUS No. 29908 of 2023)

For the Petitioner/s : Mr. Binod Pd. Singh, Advocate

For the Opposite Party/s : Mr. Pramod Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 07-08-2023 Heard learned counsel for the petitioners and learned
APP for the State.

2. Petitioners seek bail, who are in custody since
20.07.2022, in connection with Special Case No. 118 of 2022
(N.D.P.S. Case No. 151 of 2022) arising out of Bihta P.S. Case No.
698 of 2022, F.I.R. dated 19.07.2022 registered for the offences
punishable under Sections 8(C)/ 21(a)/27 of Narcotic Drugs and



Psychotropic Substances Act.

3. Recovery is of 55 Pudiyas of *Smack* from the possession of the petitioners.

4. Learned counsel for the petitioners submits that the petitioners are innocent and they have 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 55 Pudiyas of Smack has been recovered from the possession of the petitioners. He further submits that 23 Pudiyas has been recovered from the possession of the petitioner namely Shubham Kumar and 32 Pudiyas has been recovered from the possession of the petitioner namely Atul Raj i.e. total quantity of altogether 17 Grams has been recovered from the possession of both the petitioners. He further submits that 7.1 Grams and 9.8 Grams of Smack has been recovered from the possession of petitioners namely Shubham Kumar and Atul Raj and the recovered contraband is less than the commercial quantity but fairly submits that the recovered contraband is more than the small quantity and hence there is no embargo under Section 37 of the N.D.P.S. Act to enlarge the petitioners on bail. Further submits that police after investigation submitted chargesheet against the petitioners and the petitioners are in custody since 20.07.2022.



5. Learned APP for the State, on the other hand, vehemently opposed the prayer for bail of the petitioners and submits that the FSL report confirms that the recovered contraband is *Heroin* but fairly submits that the recovered contraband is less than the commercial quantity and apart from that the petitioner namely Shubham Kumar carries one more case other than the present one whereas petitioner namely Atul Raj carries five more cases other than the present one .

6. Considering the facts and circumstances of the case, let the petitioners, above named, be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned Sessions Judge, Patna, in connection with Special Case No. 118 of 2022 (N.D.P.S. Case No. 151 of 2022) arising out of Bihta P.S. Case No. 698 of 2022, with the following conditions :-

(1) Petitioners 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 their absence on two consecutive dates without sufficient reason, their bail bonds shall be cancelled by the Court below.

(2) If the petitioners tamper 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 petitioners and in case at any stage, it is found that the petitioners have concealed their criminal antecedents, the court below shall take step for cancellation of bail bond of the petitioners. 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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