

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26807 of 2023

Arising Out of PS. Case No.-293 Year-2022 Thana- NAGAR District- Vaishali

Chandan Kumar Son of Vijay Mahto Resident of village - Ramchawra,
Rambhadra, Ward no. 13, P.S. - Hajipur, Distt. - Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravish Mishra, Advocate

For the Opposite Party/s : Mr. Satya Nand Shukla, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 28-07-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

3. Petitioner seeks bail who is in custody since 11.04.2022 in connection with Hajipur Town P.S. Case No. 293 of 2022, F.I.R. dated 09.04.2022 for the offences punishable under Sections 8(C), 21(b) and 22 of the N.D.P.S. Act.

4. Recovery is of 12.680 gram of Smack like substance.

5. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that it appears from the F.I.R. as well as seizure list that altogether 12.680 gram of Smack like substance has been recovered from the possession



of the petitioner. He further submits that there is non-compliance of the mandatory provision of Sections 50 and 50(6) of the N.D.P.S. Act and it appears that the recovered contraband is less than the commercial quantity but fairly submits that the recovered contraband is more than the small quantity. Hence, there is no embargo under Section 37 of the N.D.P.S. Act for grant of bail to the petitioner. Apart from the aforesaid, the prosecution had filed the charge sheet without the F.S.L. report. He further submits that it appears that the date of the F.S.L. report is 20.07.2023 but the prosecution had filed the charge sheet prior to the F.S.L. report. He further submits that the police after investigation submitted the charge sheet against the petitioner. The petitioner is in custody since 11.04.2022.

6. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner and submits that the F.S.L. report confirms that the recovered contraband is Heroin.

7. Considering the aforesaid facts and circumstances and the fact that the recovered contraband is less than the commercial quantity and the period of custody, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount



each to the satisfaction of the learned Additional Sessions Judge I, Vaishali at Hajipur in connection with Hajipur Town P.S. Case No. 293 of 2022, 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 witnesses, 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 antecedent, 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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