

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27855 of 2023**

Arising Out of PS. Case No.-303 Year-2020 Thana- KAJI MUHAMMADPUR District-
Muzaffarpur

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Md. Shahid Son Of Md. Basir Resident Of Mohalla - Sadpura, Neem Chowk
Near Milki Tola Pokhariya Peer, P.S.- Kazi Mohammadpur, District -
Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Hari Kishore Thakur, Advocate

For the Opposite Party/s : Mr. Anil Kumar Singh No. 1, APP

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

3 28-06-2023 Heard learned counsel appearing on behalf of the

petitioner and learned APP appearing on behalf of the State.

The petitioner seeks bail in connection with Kazi
Mohammadpur P.S. Case No.303 of 2020 registered for the
offence under Section 20 (b) (ii)(B)/27 of the N.D.P.S. Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 08.12.2020.

The allegation against the petitioner is to have in
possession of 120 grams *charas*/smack like substance, where
alleged recovery was made from his jointly occupied house by
other co-accused persons/family members.

Learned counsel appearing on behalf of the petitioner
submitted that the alleged recovery of contraband i.e.,



charas/smack like substance, less than commercial quantity was made from the jointly occupied house and not from the conscious physical possession of this petitioner. It is also submitted that compliance of Section 100 (4) of the Cr.P.C. also not appears to be made in the present case. It is submitted that as recovered quantity is less than commercial quantity therefore compliance of Section 37 of the N.D.P.S. Act not appears to be made in the present case. It is pointed out that cash of Rs. 73,400/- is of brother of this petitioner, who is also co-accused, living in the same house. It is submitted that petitioner actually involved in 2 cases and his brother involved in total 3 cases and therefore jointly it has been wrongly mentioned in paragraph 49 of the case diary that petitioner found involved in 5 cases, actually petitioner involved in 2 cases, where he is on bail. While concluding the argument, it is submitted that investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, opposes the prayer for bail.

In view of the facts and circumstances as mentioned above as recovery of contraband i.e., *charas*/smack like



substance was made from jointly occupied house of the petitioner, which is less than commercial quantity coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 08.12.2020, let above named petitioner is directed to be released on bail in connection with Kazi Mohammadpur P.S. Case No.303 of 2020 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-II, Muzaffarpur/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J.)

S.Tripathi/-

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