

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29746 of 2023

Arising Out of PS. Case No.-780 Year-2022 Thana- NAUBATPUR District- Patna

NIRAJ KUMAR Son of Shanichar Yadav Resident of village - Chhoti
Tengraila, P.O. - Amarpura, P.S. - Naubatpur, Distt. - Patna

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Sinha

For the Opposite Party/s : Mr.Yogendra Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 12-06-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with Special
(N.D.P.S) Case No. 31 of 2023 arising out of Naubatpur P.S. Case
No. 780 of 2022 registered for the offences punishable under
Sections 8 (c), 21(b) (c) of the N.D.P.S Act.

As per prosecution case, 40 puriya of smack like
substance weighing about 8 gram has been recovered from five
apprehended co-accused persons. Petitioner is one among them from
whose pocket seven puriya of smack like substance weighing about
1.4 gram has been recovered.

Learned counsel for the petitioner submits that
petitioner is in custody since 01.12.2022 and bears no criminal
antecedent. Charge sheet has been submitted in the case and there is
no likelihood of tampering with the prosecution evidence. Learned



counsel further submits that 8 gm smack has been recovered and small quantity of smack mentioned in N.D.P.S. Act is 5 gm whereas 250 gm is commercial quantity and thus, alleged recovery is less than commercial quantity. He further submits that seizure list has not been made as per law and while conducting search there is complete violation of Section 50 of the N.D.P.S. Act. He further submits that petitioner is quiet innocent and has been falsely been implicated in the case. He further submits that co-accused Nitish Kumar has already been granted bail vide Cr. Misc. No. 26922 of 2023 by a co-ordinate Bench of this court and the case of the present petitioner stands on similar footing.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of the petitioner, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, co-accused has already been granted bail by a co-ordinate Bench of the court and on the principle of parity let the petitioner above named be released on bail, 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-XVIII-cum-Special Judge , N.D.P.S Act (Patna) in connection with



Special (N.D.P.S) Case No. 31 of 2023 arising out of Naubatpur P.S.
Case No. 780 of 2022, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) 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.

(iv) If the petitioner is found involved in similar nature of offences in future, the learned trial court shall be at liberty to cancel his bail bond.

(Alok Kumar Pandey, J)

vashudha/-

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