

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30935 of 2023

Arising Out of PS. Case No.-8 Year-2023 Thana- CHHATAUNI District- East Champaran

Suresh Yadav Son of Bharat Prasad Yadav @ Bharat Rai R/O-Sirisiya
Basantpur, P.S.-Nakardei, Distt.-East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate

For the Opposite Party/s : Mr. Choubey Jawahar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 04-07-2023 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with
Chhatauni P.S. Case No. 8 of 2023 registered for the offence
under Sections 20(b)(ii)C, 22 of the Narcotic Drugs and
psychotropic Substances Act (N.D.P.S. Act).

The accused/petitioner is named in the F.I.R. and is in
custody since 08.01.2023.

The allegation against this petitioner is to have in
possession of 100 grams contraband i.e., Smack alongwith other
co-accused persons from whom other contraband like *Ganja* and
Smack were also recovered in different quantity.



Learned counsel appearing on behalf of the petitioner submitted that the alleged recovery of Smack not appears to be made from conscious physical possession of this petitioner, where compliance of Section 50 of N.D.P.S. Act also appears doubtful which is otherwise mandatory legal provisions. It is submitted that as the recovered quantity is less than commercial quantity of 250 grams in the present case, the rigorous implication of Section 37 of N.D.P.S. Act not appears applicable in present case. It is submitted that similarly situated co-accused, namely, Bittu Kumar Singh has already granted bail by one of the learned co-ordinate Bench of this Court through Cr. Misc. No. 23892 of 2023 vide order dated 23.05.2023. While concluding the argument, it has been submitted that petitioner is a man of clean antecedent and moreover, investigation of this case is completed, for which charge-sheet has already submitted, as such, there is no chance of tampering with the evidence.

Learned APP opposes the prayer of bail.

Considering the facts and circumstances as mentioned above, as compliance of Section 50 of N.D.P.S. Act not appears to be followed in present case, where alleged recovered quantity of contraband i.e., Smack is less than commercial quantity,



coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 08.01.2023, accordingly the petitioner, above named, is directed to be released on bail in connection with Chhatauni P.S. Case No. 8 of 2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge/Special Judge, Motihari, East Champaran/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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