

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31557 of 2023

Arising Out of PS. Case No.-1029 Year-2022 Thana- DANAPUR District- Patna

Rishikesh Kumar @ Rishikesh, Son of Sri Mukund Pandey, Resident of
Village/Mohalla - Saguna Gandhi Murti, P.S. - Danapur, Distt. - Patna, Bihar.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravi Kant Kumar, Advocate

For the Opposite Party/s : Mr. Uma Shankar Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 20-06-2023 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 Special
Case 183 of 2022 (N.D.P.S. Case No. 229 of 2022) arising out
of Danapur P.S. Case No. 1029 of 2022 registered for the
offence under Section 21(a) of N.D.P.S. Act, 1985.

The accused/petitioner is named in the F.I.R. and is in
custody since 24.09.2022.

The allegation against the petitioner is to have in
possession of smack having total quantity of 5.58 grams.

Learned counsel appearing on behalf of the petitioner
submitted that the petitioner implicated falsely as the alleged



contraband i.e. smack not appears to be recovered from the conscious physical possession of the petitioner. It is submitted that alleged recovery is less than commercial quantity and, as such, the rigorous provisions of Section 37 of N.D.P.S. Act is not appears applicable in this case. It is further pointed out that the compliance of Section 50 of the N.D.P.S. Act as regard to search upon a person is also not appears to be followed in present case. While concluding the argument, it is submitted that petitioner found involved in one more criminal case, where he is on bail and, moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail fairly conceded that the alleged quantity of contraband is less than commercial quantity.

Considering the facts and circumstances as mentioned above and by taking note of the fact that compliance of Section 50 of the N.D.P.S. Act appears doubtful in present case, where recovered quantity is less than commercial quantity, coupled with the fact that charge-sheet has already been submitted, where petitioner is in custody since 24.09.2022, accordingly, petitioner above named, is directed to be released on bail in



connection with Special Case 183 of 2022 (N.D.P.S. Case No. 229 of 2022) arising out of Danapur P.S. Case No. 1029 of 2022 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 District & Sessions Judge XXV, Patna/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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