

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32910 of 2023

Arising Out of PS. Case No.-89 Year-2023 Thana- ITARHI District- Buxar

MD. JUNAID KHAN S/o- LATE JABBAR KHAN Village- Mircha Ps-
Dildar Nagar, Dist- Gajipur UP

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravi Shankar Pathak, Advocate

For the Opposite Party/s : Mr. Umesh Lal Verma, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 12-07-2023 Heard the parties.

The petitioner is in custody in connection with Itarhi P.S. Case No. 89 of 2023 for the offence under Sections 8 (c), 21 (b) and 22 (b) of N.D.P.S. Act lodged on 05.04.2023 by the informant, Rakesh Kumar Singh.

The prosecution case, in brief, is that on 05.04.2023 at about 03.00 PM. informant along with police personnel having Investigation Kit had departed from P.S. for Special Raid. As they were checking vehicles near Kukudha More, then received secret information that towards with big consignment of intoxicating substance Heroine are coming in Itarhi Area. He informed Senior Officer at once, who directed to make raid immediately. By order, he informed to Block Development Officer Itarhi to assist as Magistrate. After some time, B.D.O.



reached near Kududha More, to which at 03.45 P.M. he took away him & at 04.05 PM. reached Sidha Bandh More and started Vehicle Checking in presence of B.D.O. as Magistrate.

Around 05.15 P.M., he saw that 02 persons, on two motorcycles coming. However, tried to escape on the sight of police, both were apprehended and in presence of two (02) independent witnesses namely Munna Kumar & Pankaj Kumar Singh, the accuseds Md. Junaid Khan (petitioner) and Bhim Upadhyay were searched and 100 Gram Heroine like intoxicating substance wrapped in plastic as also 01 small Key pad Nokiya Mobile & 01 Bullet Motorcycle were seized from Md. Junaid Khan and 30 Gram Heroine like intoxicating substance wrapped in plastic, kept in right pocket of Jeans pant, 01 small Key pad Nokiya Mobile & 01 white coloured Apache Motorcycle from Bhim Upadhyay. Accordingly, Seizure list was prepared and F.I.R. lodged.

It has been contended by the learned counsel for the petitioner that the police has framed him in the matter and in any case the allegation of recovery/seizure is 100 g of '*heroine*' which is below the quantity of 250 g inscribed in the NDPS Act.

Learned APP opposes the prayer stating that there is recovery of beside the *heroine*, a motorcycle and mobile.



To this, learned counsel for the petitioner submits that both the motorcycle and the mobile belongs to him.

Taking into account the aforesaid facts that the recovery of '*heroine*' is below the commercial quantity of 250g, is in custody since 06.04.2023 (as stated in paragraph 17 of the petition) and he do not have criminal antecedent, this Court is inclined to extend him the privilege of bail with conditions.

Let the petitioner be released on bail on furnishing bail bond of Rs. 20,000/- (Twenty thousand) with two sureties of like amount each to the satisfaction of learned District Judge cum Special Judge, N.D.P.S. Act at Buxar, in connection with Itarhi P.S. Case No. 89 of 2023 subject to the following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every month for one year to mark his attendance;



(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the application is allowed.

(Rajiv Roy, J)

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