

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33213 of 2023

Arising Out of PS. Case No.-223 Year-2023 Thana- KHAGARIA District- Khagaria

MITHUN KUMAR @ AMIT KUMAR SON OF ARUN YADAV R/O
Village- Kumhar Chakki, P.S.-Muffasil, District-Khagaria.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar

For the Opposite Party/s : Mr.Yogendra Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 24-06-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with N.D.P.S.
Special Case No.13/2023 arising out of Khagaria P.S. Case No.
223/2023 registered for the offences punishable under Sections
21(a), 22(a) and 25 of the Narcotic Drugs and Psychotropic
Substances Act, 1985.

As per prosecution case, the informant Rajiv Kumar
alongwith police personnel got information that co-accused Raja
Kumar was selling smack. Police personnel reached at
Mathurapur and surrounded the house of Raja Kumar and two
persons were apprehended namely Raja Kumar and Rajan
Kumar. On search 2.810 gm. Smack was recovered from Raja
Kumar and Rajan Kumar. A viral video was sent to informant



which showed that a lot of people were purchasing smack standing in a queue. Then Police official found that the said video from Jaiprakash Nagar and related to the house of Sunita Devi. Informant went there and search the house of co-accused Sunita Devi. After few minutes police told that co-accused Rohit, Shrikant and Mithun (petitioner) were tried to flee away but police caught them. Co-accused Shrikant told that he came to purchase smack and present petitioner Mithun is the supplier of the smack and co-accused Ram Vilash Yadav, Rohit and Sunita Devi sold it. On search 24 small Pudiya were recovered from the possession of Ram Vilash Yadav. Rs.6000/- was recovered from possession of Rohit and he told that this money was brought after selling smack. A Vivo company mobile was recovered from the possession of Rahul and 0.360 mg. Smack was recovered from the possession of co-accused Sunita Devi.

Learned counsel for the petitioner submits that petitioner is innocent and has falsely been implicated in this case. The petitioner is languishing in custody since 08.03.2023 and bears no criminal antecedent. He further submits that nothing has been recovered from the possession of the petitioner and there is no independent witness in the alleged occurrence. He further submits that there is no compliance of Section 57 of



the N.D.P.S. Act. Learned counsel for the petitioner orally submits that charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence.

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

Considering the facts and circumstances of the case, period of custody, argument advanced on behalf of both sides, charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence and keeping in view clean antecedent of petitioner and also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge cum Special Judge (NDPS), Khagaria in connection with N.D.P.S. Special Case No.13/2023 arising out of Khagaria P.S. Case No. 223/2023, 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)

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