

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35148 of 2023

Arising Out of PS. Case No.-1174 Year-2022 Thana- BARARI District- Bhagalpur

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NILESH KUMAR YADAV @ ATMA S/O PRAHALAD YADAV R/o Badi
Khanjarpur, Adarsh Colony, P.S.-Barari, District-Bhagalpur

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rajive Ranjan Singh, Advocate

For the Opposite Party/s : Mr.Umeshanand Pandit, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 12-07-2023 Heard the parties.

The petitioner is in custody since 11.12.2022 in connection with Kotwali (Barari) P.S. Case No. 1174 of 2022 for the offence punishable under Sections 21(b)/22 of N.D.P.S. Act lodged on 10.12.2022 by the informant Sanjay Kumar Satyarthi.

The prosecution story, in brief, is that 29 grams brown-sugar (smack), lighter, knife cutter, two packets of silver foil, electronic weight machine and total Rs. 1,61,300/- which were kept in a bag, were recovered from the house of petitioner accused Nilesh Kumar Yadav @ Atma Yadav. On query, the apprehended persons stated that they purchased the brown-sugar (smack) from accused Nishant Choudhary @ Bandu. Search cum seizure list was prepared.



It has been contended by the learned counsel for the petitioner that the police has implicated him in this case. The alleged recovery in any case is 29 grams of brown sugar whereas the quantity envisaged under NDPS Act is between 5 gram to 250grams, the upper limit.

The last submission is that he is in custody since 11.12.2022 (as stated in para-11 of the petition).

Learned APP opposes the prayer but concedes that the alleged recovery is under the commercial quantity.

Considering submission put forward by the learned counsel for the petitioner, his period of custody and the alleged recovery, 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 and Sessions Judge, Bhagalpur, in connection with Kotwali (Barari) P.S. Case No. 1174 of 2022 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 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 next 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 bail application is allowed.

(Rajiv Roy, J)

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