

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34033 of 2023

Arising Out of PS. Case No.-13 Year-2023 Thana- KORHA District- Katihar

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Pankaj Kumar Son of Nityanand Singh Resident of Village - Bansgarha, P.S.-
Korha, District - Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Singh, Sr. Advocate
		Mr. Rudrank Shivam Singh, Advocate
For the Opposite Party/s	:	Md. Mushtaque Alam, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 20-07-2023 Heard learned counsel appearing on behalf of the

petitioner and learned counsel appearing on behalf of the State.

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

3. The petitioner seeks bail in connection with Korha
P.S. Case No. 13 of 2023 registered for the offence under
Sections 20/22 of the N.D.P.S. Act.

4. The accused/petitioner is named in the F.I.R. and is
in custody since 09.01.2023.

5. The allegation against the petitioner is to have in
possession of 286 grams of *smack* which alleged to be recovered
from one black coloured Creta car bearing registration no.
BR11AV9127, alongwith other co-accused persons.



6. Learned senior counsel, Mr. Sanjay Singh appearing on behalf of the petitioner submitted that it appears convincing from the face of seizure list itself that 286 grams of *smack* was recovered from co-accused Raj Kamal Mehta, whereas implication of this petitioner only appears on the basis of his signature as obtained on seizure list, being one of the co-accused. It is submitted that seizure list also appears doubtful, being not supported by independent witnesses rather by police personnels. It is submitted that at the time of recovery petitioner was available at place of occurrence, which is a 'line hotel', where petitioner was in connection of his dinner. While travelling over the argument it is submitted that F.I.R. and seizure list suggesting no recovery of alleged contraband i.e., *samck* from the physical possession of this petitioner, therefore, implication of Section 37 of the N.D.P.S. Act not appears to be followed, *qua*, petitioner. While concluding the argument, it has been submitted that petitioner is a man of clean antecedent and moreover, investigation of this case has been completed, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

7. Learned APP, while opposing the prayer of bail, fairly conceded that recovery of *smack*, as alleged, was made



from co-accused Raj Kamal Mehta and not from this petitioner.

8. Considering the facts and circumstances as mentioned above, as recovery of contraband i.e., *smack* is from co-accused Raj Kamal Mehta, not from this petitioner coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 09.01.2023, accordingly, above named petitioner is directed to be released on bail in connection with Korha P.S. Case No. 13 of 2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Session Judge-cum-Special Judge, N.D.P.S. Act, Katihar/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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