

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34106 of 2023

Arising Out of PS. Case No.-1051 Year-2022 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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Rahul Kumar @ Rahul Yadav Son of Sanjay Yadav Resident of Mohalla -
Koyala Ghat, Kali Mandir, P.S. - Jogsar, Distt. - Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Madhu Prasun, Advocate
For the Opposite Party/s : Mr. Arun Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 26-06-2023 Heard learned counsel appearing on behalf of the

petitioner and learned counsel appearing on behalf of the State.

The petitioner seeks bail in connection with Kotwali
(Jogsar) P.S. Case No. 1051 of 2022 registered for the offence
under Sections 21(b)/22 of the N.D.P.S. Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 09.11.2022.

The allegation against the petitioner is to have in
possession of 4.95 grams of contraband i.e., *smack*.

Learned counsel appearing on behalf of the petitioner
submitted that petitioner falsely implicated in present case and
alleged smack, which was recovered in nine wrappers from



petitioner, appears to be made without complying the mandatory provision of Section 50 of the N.D.P.S. Act, regarding search upon person. It is submitted that as quantity of contraband is less than commercial quantity, therefore, the compliance of Section 37 of the N.D.P.S. Act is not appears applicable in this case. It is also submitted that the recovered quantity is even less than smaller quantity, where maximum extendable punishment is of one year and offence is bailable in nature. While concluding the argument, it has been submitted that petitioner found involved in one more criminal case, where he is on bail and moreover, investigation has been completed, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP opposes the prayer of bail.

Considering the facts and circumstances as mentioned above, as compliance of Section 50 of the N.D.P.S. Act appears doubtful on its face, where recovered quantity is smaller quantity, accordingly, petitioner, above named, is directed to be released on bail in connection with Kotwali (Jogsar) P.S. Case No. 1051 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 Sessions Judge,



Bhagalpur/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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