

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38685 of 2023**

Arising Out of PS. Case No.-286 Year-2023 Thana- SONEPUR District- Saran

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RAJA KUMAR @ ASHAVANI KUMAR S/O SHIV MANGAL SAH R/O
Village- Meena Bazar, PS. Sonapur (Hariharnath OP), Dist. Saran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Hemant Kumar

For the Opposite Party/s : Mr.Nirmala Kumari

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

3 01-09-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner has preferred this application for grant of regular bail in connection with Sonapur (Hariharnath O.P.) P.S. Case No. 286 of 2023 dated 22.04.2023 registered for the offences punishable u/ss 22/27 of the N.D.P.S. Act.

3. As per the prosecution case, 9 pieces of Phenargan containing 2ml each, 15 pieces of Avil containing 2ml each and 36 pieces without wrapper containing 2ml each were recovered from the possession of the petitioner.

4. Learned counsel for the petitioner has submitted



that the petitioner is innocent and has falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioner. The petitioner has no concern with the alleged recovery. It is submitted that the seized contraband without wrapper does not shows the type of contraband. Learned counsel has further submitted that the said contraband does not come under the NDPS Act and placed reliance on the judgment of *Lijo Joy -Versus- State of Kerala in CRL A No 1520 of 2012* wherein it is held in Paragraph 30 that Phenargan is not a narcotic drug or psychotropic substance.” Learned counsel has further placed reliance on the judgment of *Rajveer Singh @ Raju -Versus- State of Punjab, CRM-M No 51661 of 2021* wherein it is held that the said Avil does not come under the NDPS Act. The petitioner is accused in one more criminal case as stated in para 3 of the bail petition. The petitioner is in custody since 23.04.2023.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner.

6. Considering the aforesaid facts and circumstances of the case as well as the period of custody, the petitioner above-named, is directed to be enlarged on bail on furnishing bail-bond of Rs.20,000/- (Rupees Twenty Thousand) with two sureties of



the like amount each to the satisfaction of learned Court concerned, Saran at Chapra in connection with Sonapur (Hariharnath O.P.) P.S. Case No. 286 of 2023.

7. The application stands allowed.

(Chandra Prakash Singh, J)

Alok Verma/-

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