

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41961 of 2023

Arising Out of PS. Case No.-84 Year-2023 Thana- AHIYAPUR District- Muzaffarpur

Irfan Ali @ Md. Irfan Son of Md. Rijwan Resident of Village- Maunavi Chak
Nawada, Dalsing Sarai, PS- Dalsing Sarai, District- Samastipur At Present
Mohalla- Damodarpur Housing Board, PS- Kanti, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Alok Kumar Sinha

For the Opposite Party/s : Mr.Dr.Mrityunjaya Kr.Gautam

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 21-07-2023 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner seeks bail in connection with
N.D.P.S. Case No.36/2023 arising out of Ahiyapur P.S. Case No.
84/2023 registered for the offences punishable under Sections
414/34 of the Indian Penal Code and Sections 8 (C) and 21 (b)
of the N.D.P.S. Act.

3. As per prosecution case, petitioner was
apprehended on spot alongwith other co-accused persons. There
is alleged recovery of 9.33 gm. smack like substance from the
possession of present petitioner. 15.45 gm. smack like substance
has been recovery from the possession of co-accused Aman
Kumar and 10.55 gm. smack like substance has also been



recovery from the possession of co-accused Tinku Kumar. Total 35.33 gm. smack like substance recovered.

4. Learned counsel for the petitioner submits that petitioner is innocent and has falsely been implicated in this case. He further submits that there is alleged recovery of 9.33 gm smack and small quantity of smack mentioned in N.D.P.S. Act is 5 gm whereas 250 gm is commercial quantity and alleged recovery of 9.33 gm smack comes under intermediary quantity as per notification of Schedule 2 of the N.D.P.S. Act. The petitioner is languishing in custody since 23.01.2023 and bears no criminal antecedent. He further submits that no incriminating article i.e. Drug like smack has been recovered from the conscious possession of the petitioner. Neither Section 50 of N.D.P.S. Act nor Section 100 of the Cr.P.C. was properly followed by the concerned police. He further submits that charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence. Co-accused Tinku Kumar on similar allegation has already been granted bail by the co-ordinate Bench of this court vide Cr. Misc. No.37471/2023.

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



6. Considering the facts and circumstances of the case, period of custody, co-accused has already been granted bail, 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, argument advanced on behalf of both sides 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. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-III, Muzaffarpur in connection with N.D.P.S. Case No.36/2023 arising out of Ahiyapur P.S. Case No. 84/2023, 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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