

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49789 of 2023

Arising Out of PS. Case No.-441 Year-2022 Thana- SIDHWALIYA District- Gopalganj

SARVESH KUMAR SRIVASTAVA @ SAILESH SRIVASTAVA @
SARVESH LAL SHRIVASTAVA @ THIKEDAR S/O LATE NAGENDRA
SRIVASTAVA R/O VILLAGE- HASANPUR, PS. SIDHWALIA,
DIST.GOPALGANJ

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Javed Aslam, Advocate

For the Opposite Party/s : Mr. Pawan Kumar Chaurasia, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 08-08-2023 Heard learned counsel appearing on behalf
of the parties.

2. The petitioner seeks bail in connection with
Sidhwali P.S. Case No. 441 of 2022 registered for the offence
under Sections 414 of the Indian Penal Code and Section 8/
20(b)/(ii)B of the NDPS Act.

3. The accused/petitioner is named in the F.I.R.
and is in custody since 17.12.2022.

4. The allegation against the petitioner is to
have in possession of total 31 sachets of contraband, total 10.9
gm of smack like substance.

5. Learned counsel appearing on behalf of the
petitioner submitted that as per seizure list alleged contraband



recovered from a bag, hanging with handle of the motorcycle, and it can be said safely that recovery of contraband was not made from conscious physical possession of this petitioner. It is submitted that as quantity of recovered contraband appears much less than commercial quantity, therefore, implication of Section 37 of the NDPS Act is not applicable, in present case. While concluding the argument, it is submitted that petitioner found involved in 07 more criminal cases, where, he is on bail and moreover, investigation of this case is completed, for which, charge-sheet has already submitted, as such, there is no chance of tampering with the evidence.

6. Learned APPP appearing on behalf of the State, opposes the prayer of bail.

7. Considering the facts and circumstances as mentioned above and by taking note of the fact as recovery of contraband, not appears to be made from conscious physical possession of this petitioner, where, recovered quantity appears to be less than commercial quantity coupled with the fact that charge-sheet has already submitted, where, petitioner is in custody since 17.12.2022, let the petitioner, above named, is directed to be released on bail in connection with Sidhwali P.S. Case No. 441 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 Additional Sessions Judge, VIII, Gopalganj/concerned court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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