

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48144 of 2023

Arising Out of PS. Case No.-74 Year-2023 Thana- MASAUDHI District- Patna

MD. SHAHJAD @ MD. SHAHNAJ SON OF MR. MD. SHAHABUDDIN
RESIDENT OF VILLAGE - MASAUHRI MALIKANA, P.S. - MASAUHRI,
DISTRICT - PATNA

... .. Petitioner/s

Versus

THE STATE OF BIHAR , PATNA

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Purushottam Kumar, Adv.

For the Opposite Party/s : Mr. Rana Randhir Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 19-09-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with Masaurhi
P.S. Case No. 74 of 2023 dated 07.02.2023 registered for the
offence under Sections 8(c) and 21(b) of the N.D.P.S. Act.

Recovery is of 15.08 gram brown sugar.

Learned counsel appearing for the petitioner submits
that the petitioner is innocent and has falsely been implicated in
this case. He further submits that it appears from the F.I.R. itself
that total 15.08 gram of contraband (brown sugar) has been
recovered from the possession of the petitioner. He further
submits that there is non-compliance of Sections 42 and 50 of the
N.D.P.S. Act. He further submits that as per notification issued
under the N.D.P.S. Act, 1985, the small quantity of heroin has been



specified as 5 grams, whereas the commercial quantity has been specified as 250 grams. In fact, in this case, the total recovery is of 15.08 gram of brown sugar as per seizure list, thus, it is apparent that the quantum of alleged brown sugar recovered from the possession of the petitioner does not fall within the purview of commercial quantity, hence, there is no bar for this Court to grant the privilege of bail to the petitioner. The petitioner is rotting in judicial custody since 09.02.2023.

Learned A.P.P. for the State opposed the prayer for bail of the petitioner and submits that the recovery has been made from the possession of the petitioner and the F.S.L. report also confirms that the alleged contraband is brown sugar/ heroin but he fairly submits that the recovery is less than the commercial quantity. Apart from that the petitioner carries one more case other than the present one.

Considering the facts and circumstances of the case, let the, above named, petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-IV -cum- Special Judge, N.D.P.S. Act, Patna in connection with Masaurhi P.S. Case No. 74 of 2023 with the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court



and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

(2) 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.

And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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