

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50736 of 2023

Arising Out of PS. Case No.-546 Year-2022 Thana- BHAGWAN BAZAR District- Saran

TAMATOR RAI @ VISHWAJIT RAI @ KANA Son of Late Ishwar Rai
Resident of village - Ratanpura, Ojha toli, P.s. - Bhagwan Bazar, Distt. - Saran
at Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Rajani Kumari, Advocate

For the Opposite Party/s : Mr. Uday Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 27-09-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. Petitioner seeks bail, who is in custody since 23.11.2022, in connection with N.D.P.S. Case No. 02 of 2023, arising out of Bhagwan Bazar P.S. Case No. 546 of 2022, F.I.R. dated 22.11.2022 registered for the offences punishable under Sections 20/22 of Narcotic Drugs and Psychotropic Substances Act.

3. The case relates to recovery of 5.27 Grams of *Smack* as well as Rs. 5,000/- and one mobile phone.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in the present case. She further submits that from perusal of the F.I.R. as well as seizure list that altogether 5.27 grams of Smacks like



substance as well as Rs. 5,000/- and one mobile phone have recovered from the possession of the petitioner. She further submits that there is non compliance of Section 50 of the N.D.P.S. Act and the recovered contraband is more than the small quantity but less than the commercial quantity. He further submits that co-accused person namely Deepak Rai @ Dipal Rai from whose possession 5.35 grams of Smack like substance has been recovered has been granted bail by a Coordinate Bench of this Court vide order dated 24.06.2023 passed in Cr. Misc. No. 32830 of 2023 and the police after investigation submitted chargesheet against the petitioner and the petitioner is in custody since 23.11.2022.

5. Learned APP for the State, on the other hand, vehemently opposed the prayer for bail of the petitioner and submits that the Smack has been recovered from the possession of the petitioner and apart from the aforesaid, the petitioner carries one more case other than the present one but fairly submits that co-accused person from whose possession 5.35 grams of *Smack* has been recovered has been granted bail by a Coordinate Bench of this Hon'ble Court.

6. Considering the facts and circumstances of the case, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 1st



Additional Sessions Judge-cum-Special Judge, Saran at Chapra in connection with N.D.P.S. Case No. 02 of 2023 arising out of Bhagwan Bazar P.S. Case No. 546 of 2022, 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 absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(2) If the petitioner tampers with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) 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 antecedents, 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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