

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49487 of 2022

Arising Out of PS. Case No.-98 Year-2022 Thana- MITHANPURA District- Muzaffarpur

Md. Sonu Khan Son Of Manawar Khan R/O Mohalla- Shukla Road,
Chaturbhuj Asthan, P.S.- Town, District- Muzaffarpur , State- Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nachiketa Jha, Advocate

For the Opposite Party/s : Mr.Shahabuddin Azeem @ S. Azeem, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 14-02-2023 Heard learned counsel appearing on behalf of the
petitioner and learned APP appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with N.D.P.S.
Case No. 86 of 2022, arising out of Mithanpura P.S. Case No.
98 of 2022 registered for the offence under Section 8/20(b)(ii)
(B) of the N.D.P.S. Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 03.04.2022.

The allegation against the petitioner is to have in
possession of 13 sachet of “**Smack**” total containing 7 gm.

Learned counsel appearing on behalf of the petitioner
submitted that alleged recovery of contraband i.e. Smack not



appears to be made from the conscious physical possession of the petitioner, where recovery was alleged to be slightly above than smaller quantity. It is submitted that compliance of Section 50 of the N.D.P.S. Act not appears to be made in the present case, which is otherwise the mandatory provision of law must be complied with given facts and circumstances. It is further submitted that it is not a case, where provision of Section 37 of the N.D.P.S. Act is to be followed. It is also submitted that co-accused having more recovery has already been granted bail through Cr. Misc. No. 61120 of 2022 vide order dated 30.01.2023. While concluding the argument, it has been submitted that petitioner is a man of clean antecedent and, moreover, investigation of this case is complete, for which, charge-sheet has been submitted, as such, there is no chance of tempering with the evidence.

Learned APP, while opposing the prayer of bail, fairly conceded the fact that alleged recovery is less than commercial quantity.

In view of the facts and circumstances as mentioned above, as alleged recovery of contraband i.e. smack is less than commercial quantity, where compliance of Section 50 of the N.D.P.S. Act not appears to be followed on its face coupled with



the fact that charge-sheet has been submitted, let the petitioner, above named, is directed to be released on bail in connection with Mithanpura P.S. Case No. 98 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 A.D.J.-IInd, Muzaffarpur/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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