

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49733 of 2022

Arising Out of PS. Case No.-232 Year-2022 Thana- BETTIAH CITY District- West
Champaran

=====

Dhanilal Prasad S/o Bahadur Mahto, Resident of Village-Ghorahiya Patjirwa,
Ward No.3 P.S. Srinagar Pujaha, presently resident of Village- Naurangibagh,
Ward No.37, P.S.- Bettiah, District- West Champaran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

=====

Appearance :

For the Petitioner/s : Mr. Ashutosh Kumar Tiwary, Adv.

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP

=====

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 13-02-2023 Learned counsel for the petitioner is permitted to

remove the defect(s), as pointed out by the office, within a

period of four weeks' from today.

Heard Mr. Ashutosh Kumar Tiwary, learned
counsel appearing on behalf of the petitioner and Mr. Sanjay
Kumar Tiwary, learned Additional Public Prosecutor for the
State.

The petitioner seeks regular bail, who is in custody
in connection with Bettiah(T) P.S. Case No.232 of 2022
registered for the offences punishable under Sections 21(b) and
23(b) of the Narcotic Drugs and Psychotropic Substances Act.

As per the prosecution case, it has been alleged that
in course of patrolling duty by the informant, who happens to be



Additional SHO of Bettiah (T) P.S., he received an information with regard to involvement of the petitioner in selling of the drugs, apprehended him and, on search, 13 gram smack like substance was recovered.

Learned counsel appearing on behalf of the petitioner submits that from the FIR, it is evident that the police personnel were going in connection with the investigation of some other crime, however, it seems to be very surprising that in the way they apprehended the petitioner and, thereafter, the entire procedure of search and seizure was completed and it has been found 13 gram smack like substance from the possession of the petitioner. He further submits that, in fact, nothing has been recovered from the possession of the petitioner, however, on account of some oblique reason, he has been falsely implicated in this case and there is no compliance of Sections 42 and 50 of the NDPS Act. He next submits that the alleged recovery of smack like substance is much below the commercial quantity and, as such, rigorous provided under Section 37 of the NDPS Act does not attract in the present case. He also submits that the charge-sheet has been submitted without obtaining the FSL report which also vitiates the investigation and, moreover, the petitioner having fair antecedent is in custody for over a



period of ten months.

On the other hand, learned counsel for the State opposes the bail application and submits that the recovery has been made from the conscious physical possession of the petitioner.

Regard being had to the submissions made on behalf of the parties and considering the quantity of the contraband, apart from other infirmities in the search and seizure, coupled with the period of custody and fair antecedent, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Twenty thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge, Bettiah, West Champaran in connection with Bettiah (T) P.S. Case No.232 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.



(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

rohit/-

U		T	
---	--	---	--

