

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53576 of 2023

Arising Out of PS. Case No.-173 Year-2023 Thana- DAGARUA District- Purnia

MAHFOOZ ALAM S/O SAMEER R/O TELANIA RAHIKA WARD NO. 3,
P.S- DAGARUA, DISTT.- PURNEA.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Md Fazle Karim, Advocate
For the Opposite Party/s : Mr.Nirmal Kumar Sinha, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 04-09-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner is in judicial custody in connection with Dagarua P.S. Case No. 173 of 2023 registered under Sections 8 (c), 21 (b), 25 and 29 of the NDPS Act lodged on 31.05.2023 by the informant, Ram Chandra Mandal.

3. As per the prosecution story, the allegation is that the police reached the house of one Arvind Kumar Singh and found two motorcycles and one car leaving the place. They were apprehended and 40 grams 'smack' recovered from the secret cell of the case besides Rs. 30, 000/- also a mobile phone from Arvind Kumar Singh. Further 50 gram 'smack' recovered along with the Rs. 10,800 from the dickey of motorcycle. There was recovery of mobile and cash from the other accused also. The arrested persons Arvind Kumar Singh informed that he provided



five pouches of 4 gram each to the petitioner for sell. Accordingly the petitioner was apprehended and 20 grams '*smack*' recovered from his possession. Accordingly, the FIR.

4. Learned counsel for the petitioner submits that neither he was present in the car nor in the motorcycle and only on the basis of confessional statement of Arvind Kumar Singh, the police apprehended him and narrated this 20 grams '*smack*' theory. In any case, his contention is that recovery is below the commercial quantity and he has remained in custody since 01.06.2023 (as stated in paragraph-13 of the petition) and do not have criminal antecedent.

5. Learned APP opposes the prayer for bail stating that there is recovery of '*smack*' from the possession of the petitioner.

6. Considering the submissions put forward by the parties, materials on record, the recovery is below the commercial quantity and do not have criminal antecedent, this Court is inclined to grant him privilege of bail.

7. Let the petitioner be released on bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Judge, NDPS Act, Purnea in connection with Dagarua P.S. Case



NO. 173 of 2023 subject to the following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his/her bail bond by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for next six months to mark attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of his bail bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Rajiv Roy, J)

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