

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57194 of 2023

Arising Out of PS. Case No.-241 Year-2023 Thana- BARHARA KOTHI District- Purnia

Prince Kumar S/o- Umesh Mandal R/o- Gorhari Tola Ward no-12, Ps-
Barhara Kothi Dist- Purnia

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anuj Kumar, Advocate

For the Opposite Party/s : Mr. Nitya Nand Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 04-09-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Petitioner seeks bail who is in custody since
20.06.2023 in connection with Barhara (Raghubanshnagar) P.S.
Case No. 241 of 2023, F.I.R. dated 20.06.2023 for the offences
punishable under Sections 8(c) and 21(b) of the N.D.P.S. Act.

3. According to prosecution case, recovery of total
10.80 gms brown sugar has been made from the possession of
the petitioner.

4. Learned counsel for the petitioner submits that
petitioner has clean antecedent and he has falsely been
implicated in the present case. He further submits that from the
bare perusal of the F.I.R. and seizure list, it appears that
altogether 10.80 gms of brown sugar has been recovered from



the conscious possession of the petitioner and the co-accused person, namely, *Rana kumar* and *Milan Kumar*. He further submits that nothing incriminating has been recovered from the possession of the petitioner but the petitioner has been arrested along with other co-accused persons. He further submits that the recovered contraband does not come under the purview of commercial quantity, therefore, rigorous of Section 37 of the the N.D.P.S. Act does not come into play in this case. Hence, there would not be embargo to enlarge the petitioner on bail. He further submits that there is non-compliance of Section 50 of the N.D.P.S. Act. He further submits that since nothing has been recovered from the conscious possession of the petitioner, no case is made out against the petitioner under the N.D.P.S. Act. The petitioner is in custody since 20.06.2023.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner.

6. Considering the aforesaid facts and circumstances, let the petitioner, above named, 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 the learned Court of Special Judge, N.D.P.S. Act, Purnia, in connection with Barhara (Raghubanshnagar) P.S. Case No. 241 of 2023, subject to the



following conditions:-

i. 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.

ii. 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.

iii. 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.

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(Rajesh Kumar Verma, J)

