

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51800 of 2023

Arising Out of PS. Case No.-702 Year-2022 Thana- NAUBATPUR District- Patna

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KUNDAN KUMAR SON OF LATE MANILAL SINGH RESIDENT OF
VILLAGE- MAHAMDALICHAK, PS- NAUBATPUR, DISTT- PATNA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Indeshwari Prasad Mandal, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 05-09-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with Special
(N.D.P.S.) P.S. Case No. 212 of 2022 arisen out of Naubatpur P.S.
Case No. 702 of 2022 dated 21.10.2022 registered for the offence
under Sections 8(c), 21(b)(c) of the N.D.P.S. Act.

Recovery is of 7 packet of smack from the possession
of the petitioner.

Learned counsel appearing for the petitioner submits
that the petitioner, who is of clean antecedent, is innocent and
has falsely been implicated in this case. He further submits that
on bare perusal of the F.I.R., it appears that altogether 10.05 gram
of smack containing in 35 packets has been recovered from the
possession of the four accused however, seven packets of smack



out of 35 packets are said to have been recovered from the possession of the petitioner. He further submits that the recovered contraband is less than the commercial quantity so there is no embargo of Section 37 of the N.D.P.S. for grant of bail to the petitioner. Moreover, co-accused, Santosh Kumar @ Digvijay Kumar and Ramjit Mistri @ Ramji Mistri have already been granted bail by a co-ordinate Bench of this Court vide order dated 27.07.2023 and 26.306.2023 passed in Cr. Misc. No. 43722 of 2023 and Cr. Misc. No. 33031 of 2023, respectively. He further submits that the police after investigation has submitted charge-sheet in this case against the petitioner. The petitioner is rotting in judicial custody since 22.10.2022.

Learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioner and submits that the petitioner had been apprehended by the police along with the contraband and the F.S.L report also confirms that the same is smack. He further submits that fairly submits that the alleged quantity is less than the commercial quantity and other co-accused have been allowed bail by a co-ordinate Bench of this Court.

Considering the facts and circumstances of the case, let the, above named, petitioner 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 learned Additional Sessions Judge-XII, Patna in connection with Special (N.D.P.S.)



Case No. 212 of 2022 arising out of Naubatpur P.S. Case No. 702 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/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

(2) 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.

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.

(Rajesh Kumar Verma, J)

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