

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52090 of 2022

Arising Out of PS. Case No.-193 Year-2022 Thana- BAISI District- Purnia

ANIL CHOUDHARY SON OF NARESH CHOUDHARY R/O VILLAGE -
NATHNAGAR, P.S.- NATHNAGAR, DISTRICT- BHAGALPUR

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Syed Masleh Uddin Ashraf

For the Opposite Party/s : Mr.Chandra Bhushan Prasad

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 08-02-2023 Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The petitioner seeks bail in connection with
Special (NDPS) Case No. 29 of 2022 arising out of Baisi P.S.
Case No. 193 of 2022 registered for the offences punishable
under Sections 8(c), 20(b) of the Narcotic Drugs and
Psychotropic Substance Act (NDPS Act).

As per prosecution case, there is alleged recovery
of 100 gm smack like substance from the possession of the
petitioner.

Learned counsel for the petitioner submits that
petitioner is in custody since 19.05.2022 and bears no criminal



antecedent. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. He further submits that the mandatory provision of Section 42 of the NDPS Act has not been followed. The authority, who has seized the alleged smack in question, is not authorized to assess that the recovered article is smack. He further submits that small quantity of smack is 5 gm and commercial quantity of the same is 250 gm and recovery is alleged to be 100 gm which comes under intermediary quantity. He further submits that there is no independent witness of the seizure list and all the witnesses of alleged seizure list are the members of the raiding team. He further submits that petitioner is quite innocent and has committed no offence as alleged in the FIR.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of petitioner, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner



above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-special Judge NDPS Act, Purnea in connection with Special (NDPS) Case No. 29 of 2022 arising out of Baisi P.S. Case No. 193 of 2022, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) 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.

(Alok Kumar Pandey, J)

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