

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60890 of 2022

Arising Out of PS. Case No.-475 Year-2022 Thana- MOHANIYA District- Kaimur (Bhabua)

Junaid Ansari, Son of Shariful Haque Ansari, Resident of Village- Mohania,
Ward No.- 15, Islamganj, P.S.- Mohania, District- Kaimur at Bhabhua

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vikram Dev Singh, Advocate
		Mr. Pawan Kumar Singh, Advocate
For the Opposite Party/s	:	Mr. Rajendra Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 07-02-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Vikram Dev Singh, learned counsel duly assisted by Mr. Pawan Kumar Singh, learned counsel appearing on behalf of the petitioner and the learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Mohania P.S. Case No. 475 of 2022 registered for the offences punishable under Sections 8(C)/21(b) of the N.D.P.S. Act.

As per the prosecution case, it is alleged that the police in course of patrolling received a secret information with regard to involvement of the petitioner in selling of the narcotic substance and on such information apprehended the petitioner.



On search, total 8.89 gram of heroin like substance contained in 11 sachet was recovered.

Learned counsel appearing on behalf of the petitioner submits that from the FIR it is evident that the alleged recovered heroin like substance has been weighed along with the sachet only in order to show that the narcotic substance is more than small quantity, however, the recovered heroin like substance even weighed along with the sachet is much below the commercial quantity and, as such, the rigors provided under Section 37 of the N.D.P.S. Act would not be applicable in this case. He further submits that from the FIR it is evident that there is no compliance of a mandatory provision of Sections 42 and 50 of the N.D.P.S. Act and, moreover, the charge-sheet has been submitted without obtaining the FSL report which also vitiates the entire investigation. He next submits that the petitioner having fair antecedent is in custody since 31.08.2022.

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

Regard being had to the submissions made on behalf of the parties and considering the quantity of recovered



contraband like substance coupled with the fair antecedent and custody of the petitioner apart from the irregularities in the preparation of seizure list, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge, N.D.P.S. Act, Kaimur at Bhabua in connection with Mohania P.S. Case No. 475 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)

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