

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60539 of 2022

Arising Out of PS. Case No.-509 Year-2022 Thana- NAUBATPUR District- Patna

Ashish Kumar @ Kumar Ashish @ Aashish Kumar, aged about 38 years,
Male, Son of Sanjay Sharma R/V- Naubatpur Khel Maidan, P.s- Naubatpur,
Dist- Patna

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Home, Narcotic
Drugs Control Bureau, New Delhi Govt. of India
2. The State of Bihar through the Dept. of Narcotic Drugs Control Bureau,
Patna Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Surendra Kishore Thakur, Adv.
For the Opposite Party/s : Mr. Manoj Kumar, C.G.C.

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 24-01-2023 Heard learned counsel for the petitioner and the learned
C.G.C. for the Union of India.

The petitioner seeks bail in connection with N.D.P.S. Case No.
171/2022 arising out of Naubatpur P.S. Case No. 509/2022
registered for the offence punishable under Section 385, 387/34 of
the Indian Penal Code (for brevity 'IPC') and Section 8(c)/21(b)(c)
of the N.D.P.S. Act.

There is alleged recovery of thirty-eighty (38) sachets of
smack like substance from co-accused, namely, Rishi Raj, weighing
total 15.2 grams. The police have made the arrest, when they have
come to the place on receiving intimation that some persons were
indulging in extortion on the road.

Learned counsel for the petitioner submits that there is no
recovery of any incriminating material from the petitioner. Recovery
is slightly above the small quantity, but much below commercial
quantity (250 gms). Only based on statement of co-accused, namely,



Rishi Kumar, petitioner has been arrested. Insofar as veracity of the statement, reliance is placed on decision of the Apex Court in the Case of *Tofan Singh vs State of Tamil Nadu* reported in (2021) 4 SCC 1. The petitioner is stated to be in custody since 09.08.2022, whereas it is specific averment in the bail application that he has no criminal antecedents.

Learned counsel for the Union of India is present. He has submitted that the petitioner name has been stated by the person who has been arrested with the contraband substance.

Considering the rival submissions, period of custody and the fact that no recovery is attributed against the petitioner, this Court, for the purposes of grant of bail, is inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail of the petitioner is allowed.

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 Sessions Judge/Special Judge, Patna, in connection with N.D.P.S. Case No. 171/2022 arising out of Naubatpur P.S. Case No. 509/2022, subject to the following conditions:-

- (i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.
- (ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail



bond will be liable to be cancelled.

This Court would expect that the petitioner’s counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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