

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60475 of 2022

Arising Out of PS. Case No.-166 Year-2022 Thana- SONBERSA District- Sitamarhi

Shambhu Mandal, Son of Late Ram Baran Mandal, R/v- Sonbarsa, P.S.-
Sonbarsa, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sangeet Deokuliar, Advocate

For the Opposite Party/s : Mrs. Nirmala Kumari, 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, within a
period of four weeks from today.

Heard Mr. Sangeet Deokuliar, learned counsel for the
petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Sonbarsa P.S. Case No. 166 of 2022 registered
for the offence punishable under Section 21(b) of the Narcotic
Drugs and Psychotropic Substances Act (hereinafter referred to
as 'NDPS Act').

The allegation against the petitioner is that in course
of patrolling, the police on a confidential information
intercepted one Tempo and on search 19 litres of different cough
syrup were recovered and the petitioner was apprehended while



he was fleeing away.

Learned counsel appearing on behalf of the petitioner submits that in fact the petitioner was a *bona fide* passenger of the Tempo and he has nothing to do with the cough syrup, which was said to have been recovered from the said vehicle. He further submits that the person, who was carrying the alleged cough syrup, in fact, on noticing the police party fled away, but he being ignorant of the fact remain seated in the Auto Rickshaw, apprehended by the police and implicated in this case. He next submits that there are various other irregularities in preparation of the seizure list, apart from there is no independent witness to the seizure list, which makes the entire seizure doubtful. He lastly submits that there is no compliance of Sections 42 and 50 of the NDPS Act and moreover the charge-sheet has been submitted without obtaining the FSL report.

On the other hand, learned APP for the State opposes the bail application and submits that the alleged 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 fact that there is no compliance of the mandatory provisions of the NDPS Act and



the petitioner having fair antecedent coupled with the period of custody, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Sitamarhi in connection with Sonbarsa P.S. Case No. 166 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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