

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 61120 of 2022**

Arising Out of PS. Case No.-98 Year-2022 Thana- MITHANPURA District- Muzaffarpur

FARHAN S/O Md. Khalid R/O Village- Bhagwanpur Ghocha, P.S- Bochaha,
District- Muzaffarpur

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Prem Kumar Paswan, Advocate

For the Opposite Party/s : Mr Brajendra Nath Pandey, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 30-01-2023

Heard learned counsel for the petitioner and learned Additional Public Prosecutor (for brevity, **APP**) appearing for the State of Bihar.

The petitioner seeks bail in Mithanpura Police Station (for brevity, **PS**) Case No 98 of 2022 registered for the offence punishable under Sections 8/20 (b) (ii) (B) of Narcotic Drugs and Psychotropic Substances (for brevity, **NDPS**) Act.

Allegation is of recovery of 10 grams smack, packed in 19 sachets, from the petitioner's pocket.

Learned counsel for the petitioner submits that the allegation is false. He denies and disputes the recovery and submits that the same is without following the mandatory procedure of search and seizure. Falsity of the allegation is evident from the fact that the seizure memo manifests that the weight assessment of the recovered substance has been done in the paper sachets.

Learned APP submits that there is recovery of contraband substance from the petitioner which is more than small quantity. It is further submitted that the same is from the petitioner's conscious possession.



Having considered the rival submissions, the manner of weight assessment, as pointed out by the learned counsel for the petitioner, the fact that the recovered contraband is much less than the commercial quantity though it is slightly above the small quantity, clean antecedent, period of custody as well as the fact that investigation is complete, this Court, for the purposes of grant of bail, is inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail is allowed. Let the petitioner, above named, be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge II, Muzaffarpur in Mithanpura PS Case No 98 of 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.

(Madhuresh Prasad, J)

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