

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61858 of 2022

Arising Out of PS. Case No.-278 Year-2022 Thana- GOPALPUR District- Bhagalpur

DEEPAK KUMAR @ DIPAK KUMAR, S/O KAILASH YADAV, Resident
of Village- Teen Muhani Sheikhpura, P.S.- Sheikhpura, District- Shekhpura.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pankaj Kumar, Advocate

For the Opposite Party/s : Mr.Satya Nand Shukla, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 07-02-2023 Heard learned counsel for the petitioner and the learned
APP for the State.

The petitioner seeks bail in connection with Gopalpur (Rangra) P.S. Case No. 278 of 2022 registered for the offence punishable under Sections 8(c), 21(c) and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (N.D.P.S. Act for short).

As per seizure memo, there is recovery of 100 gram Smack like substance from the petitioner, along with a mobile phone.

Learned counsel for the petitioner submits that the car from which the petitioner has allegedly been arrested does not belong to the petitioner. He has no concern with the vehicle and while he was passing by the place of recovery, he has been falsely implicated in this case. The recovery is not in compliance with the procedure prescribed under the N.D.P.S. Act. Even if the recovery is accepted as



true for the sake of argument, the same is much below commercial quantity (250 grams). Also it is not evident whether the weighment has been done with the plastic packaging in which it has allegedly been recovered or without it. The petitioner is on bail in Sheikhpura P.S. Case No. 317 of 2020, which has been lodged for offence which are not under the N.D.P.S. Act. He is in custody since 08.06.2022. Moreover, investigation is also complete.

Learned APP for the State has opposed the prayer for bail. It is submitted that more than small quantity has been recovered from the petitioner. Recovery is supported by seizure memo. Petitioner also has antecedents.

Considering the rival submissions, the disputed quantum of recovery, less than commercial quantity, as also the period of custody of 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 learned Sessions Judge, Bhagalpur, in connection with Gopalpur (Rangra) P. S. Case No. 278 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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