

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65211 of 2022

Arising Out of PS. Case No.-312 Year-2022 Thana- BAISI District- Purnia

KARAN KUMAR S/o Raju Prasad Sah @ Raj Kumar Sah R/o Mala, P.S.-
Baisi, Distt- Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md Fazle Karim, Advocate

For the Opposite Party/s : Mr. Raj Ballabh Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 03-07-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since
13.08.2022 in connection with Special Case (N.D.P.S. Act) No.
58 of 2022 arising out of Baisi P.S. Case No. 312 of 2022, F.I.R.
dated 12.08.2022 for the offences punishable under Sections
8(c) and 21(b) of the N.D.P.S. Act.

Recovery is of altogether total 10 grams of smack
from the possession of the petitioner and other co-accused
person namely, Balram Kumar Pandit.

Learned counsel for the petitioner submits that
petitioner is innocent and he has falsely been implicated in the
present case. He further submits that it appears from the F.I.R.
as well as seizure list that 5 grams each of smack was recovered



from the possession of the petitioner and co-accused namely, Balram Kumar Pandit. He further submits that there is non-compliance of the mandatory provision of Sections 42 and 50 of the N.D.P.S. Act and it appears that the recovered contraband is less than the commercial quantity but more than the small quantity. Hence, there is no embargo under Section 37 of the N.D.P.S. Act for grant of bail to the petitioner. He further submits that similarly situated, co-accused, namely, Balram Kumar Pandit @ Balram Pandit @ Balram Kumar has been granted bail by this Court vide order dated 23.06.2023 passed in Cr. Misc. No. 3661 of 2023. He further submits that the police after investigation submitted the charge sheet against the petitioner and the petitioner is in judicial custody since 13.08.2022.

The learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioner on the ground that petitioner carries one criminal antecedent other than the present one, in which petitioner is on bail. He further submits that the F.S.L. report confirms that the recovered contraband is Heroin which is as under :-

“RESULT OF EXAMINATION

Heroin OR Brown Sugar, a diacetyl derivative of Morphine were detected in the contents of plastic packets



marked A1 Ext-1 and A2 Ext-2 as described above.

Heroin is the highly addictive, intoxicating narcotic drug.”

Considering the aforesaid facts and circumstances, 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 Special Judge, N.D.P.S. Act, Purnea in connection with Special Case (N.D.P.S. Act) No. 58 of 2022 arising out of Baisi P.S. Case No. 312 of 2022, subject to the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the



petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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