

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70529 of 2023

Arising Out of PS. Case No.-68 Year-2023 Thana- KUMAR KHAND District- Madhepura

Radheshayam Choudhary @ Radheshaym Choudhari Son Of Baiju Choudhari
@ Baiju Choudhary @ Babuji Choudhary R/O- Ward No-9, Daparkha Ps-
Daparkha Dist- Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sumeet Kumar Singh, Adv
For the Opposite Party/s : Mr.Murli Dhar, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 07-11-2023 Heard Mr. Sumeet Kumar Singh, learned counsel

appearing on behalf of the petitioner and learned Additional

Public Prosecutor for the State.

02. The petitioner is apprehending his arrest in
connection with Kumarkhand P.S. Case No. 68 of 2023
registered for the offence punishable under Sections 20, 21 and
22 of the NDPS Act.

03. The police on a confidential information that
some persons are in possession of smacks going through a
Hyundai Car bearing registration no. BR50W8966, has
intercepted the same and found, three persons, namely Raju
Kumar, Jyotish Kumar, and Mans Kumar, were seated therein.
On search, 5 grams of smack like substance have been



recovered from the possession of each of the persons. It is further alleged that when the vehicle was searched further 5 gram smack was also recovered from the dashboard. The apprehended persons disclosed the names of other persons as their associates.

04. It is submitted on behalf of the petitioner that from the narration made in the FIR, it is evident that 5 grams of smack like substance have been recovered from each of the three apprehended persons, out of whom one, Jyotish Kumar, is the son of the petitioner, and further allegation has been levelled that from the dashboard of the Car, 5 grams of smack has been recovered. On account of the aforesaid seizure from the Car, the petitioner has been made accused in this case, only of he being the owner of the Hyundai Car and save and except this fact, there is no material suggesting his complicity. He further submits that so far the recovery of 5 grams of smack like substance from the car is concerned, admittedly the same comes under small quantity, for which the maximum punishment is awarded for imprisonment of one year. He next submits that so far, the other co-accused persons, including the petitioner, is concerned, considering the fact that they were in possession of small quantity of smack like substance, they have been allowed



regular bail by learned co-ordinate Benches of this Court. Further submission has been made that the petitioner is a man of fair antecedent and he had never been involved in any crime. Moreover, the vehicle in question was taken on loan, and on the alleged date of occurrence, the same was taken away by his son, and he was moving along with his friends, where they were apprehended by the police. In fact, the petitioner was not knowing this fact that the vehicle has ever been used for the purposes of any illegal activities, and even during the course of investigation no material has come pointing any complicity of the petitioner or attracting the ingredients of conscious possession.

05. On the other hand, learned APP for the State opposes the bail application and submits that the alleged recovery has been made from the Hyundai Car of which the petitioner is the owner.

06. Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioner has been made accused in this case only in the capacity of being owner of the Hyundai Car and the manner in which the recovery has been shown, the false implication of the petitioner cannot be ruled out. This Court is also conscious of the fact that the



alleged recovered smack like substance is of small quantity and the petitioner having fair antecedent, let the petitioner, named above, in the event of his arrest or surrender before the court below within four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Addl. Sessions Judge-1st-cum-Spl. Judge, Madhepura in connection with Kumarkhand P.S. Case No. 68 of 2023, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. with the further condition that one of the bailors shall be the own/close relative of the petitioner.

(Harish Kumar, J)

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