

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67819 of 2022

Arising Out of PS. Case No.-161 Year-2022 Thana- DHAMDAHA District- Purnia

RAVI KUMAR Son of Late Rajendra Sharma R/v- Nayatola, Dhamdaha
Uttar, P.S.- Dhamdaha, District- Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Praveen Kumar Agrawal, Advocate

For the Opposite Party/s : Mr.Upendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 14-03-2023 Heard learned counsel appearing on behalf of the
petitioner and learned APP appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with
Dhamdaha P.S. Case No. 161 of 2022 vide Special (N.D.P.S.)
Case No. 42 of 2022 for the offence under Sections 21(b), 25/29
of the N.D.P.S. Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 01.07.2022.

The allegation against the petitioner is to have in
possession of 105 Gms of contraband i.e. 'Smack' like
substances rapped in a polythene alleged to be recovered from
the right pocket of the petitioner.



Learned counsel appearing on behalf of the petitioner submitted that alleged recovery of contraband i.e. 'Smack' like substances not appears to be made from the conscious physical possession of the petitioner. It is submitted that compliance of Section 50 of the N.D.P.S. Act as regard to search upon person, not appears to be made in the present case, which is otherwise the mandatory provision of law which must be complied with in present facts and circumstances. It is further submitted that alleged recovery of contraband i.e. smack appears less than commercial quantity i.e. only about 105 Gms and as such barrier of Section 37 of the N.D.P.S. Act is not applicable in the present case. While concluding the argument, it has been submitted that petitioner is a man of clean antecedent and, moreover, investigation of this case is complete, for which, charge-sheet has been submitted, as such, there is no chance of tempering with the evidence.

Learned APP opposes the prayer of bail.

In view of the facts and circumstances as mentioned above, as alleged recovery of contraband i.e. smack like substances is less than commercial quantity, where compliance of Section 50 of the N.D.P.S. Act appears doubtful on its face coupled with the fact that charge-sheet has been submitted, let



the petitioner, above named, is directed to be released on bail in connection with Dhamdaha P.S. Case No. 161 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge, Purnea/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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