

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67983 of 2022**

Arising Out of PS. Case No.-617 Year-2022 Thana- AHIYAPUR District- Muzaffarpur

Guddu Kumar Son of Late Durga Sahni R/V- Shekhpur Dhab, P.S- Ahiyapur,
Dist- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Ms. Rina Sinha, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

5 26-07-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

3. Petitioner seeks bail who is in custody since 14.07.2022 in connection with Ahiyapur P.S. Case No. 617 of 2022 (NDPS Case No. 167 of 2022), F.I.R. dated 14.07.2022 for the offences punishable under Sections 8(c)/21(b) of the N.D.P.S. Act.

4. Recovery is of 15 gm of Heroin.

5. Learned counsel for the petitioner submits that petitioner has clean antecedent 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 altogether 15 gm of Smack has been recovered from the possession of the petitioner. He further submits that there is non-compliance of the mandatory provision of Section 50 of the N.D.P.S. Act and it appears that the recovered contraband is more than the small quantity but less than the commercial 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 the police after investigation submitted the charge sheet against the petitioner. The petitioner is in custody since 14.07.2022.

6. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner and submits that the F.S.L. report confirms that the recovered contraband is Heroin.

7. Considering the aforesaid facts and circumstances and the fact that the recovered contraband is less than the commercial quantity and the period of custody, 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 Additional Sessions Judge III, Muzaffarpur in connection with Ahiyapur P.S. Case No. 617 of 2022 (NDPS Case No. 167 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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