

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67496 of 2022

Arising Out of PS. Case No.-202 Year-2022 Thana- RAMGARHWA District- East
Champaran

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OM KUMAR, Gender, Male, aged about 35 years, S/o Hari Narayan Prasad
R/v- Raghunathpur, P.S.- Ramgarhwa, District- East Champaran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Anant Kumar Mishra, Advocate
For the Opposite Party/s : Mr.Prem Kumar Jha, App

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 20-04-2023 Heard learned counsel for the petitioner and the
learned APP for the State.

2. Petitioner seeks regular bail in connection with
Ramgarhwa P.S. Case No. 202 of 2022 (N.D.P.S. Case No.52 of
2022) dated 25.06.2022 registered for the offence(s) punishable
under Section(s) 8,21 (C) and 29 of the N.D.P.S. Act.

3. As per the prosecution, the petitioner along with
co-accused Kalam Habari was apprehended by the police party
and from possession of said Kalam Habari, 750 gm. of *smack*
like material was recovered and they confessed that the said
smack was provided to them by one Md. Aslam for its
transportation.

4. The main submissions advanced by the learned



counsel for the petitioner are that though the instant matter relates to the recovery of 750 grams of narcotic materials, suspected to be *Smack* but the said recovery was made from the conscious possession of co-accused Kalam Habari, petitioner has been made accused mainly on three grounds; firstly he was going with the said co-accused when the police intercepted, secondly he made an attempt to flee on seeing the police party with co-accused and thirdly co-accused Kalam Habari confessed to the crime and accepted that the alleged contraband was provided by another co-accused to him and the petitioner to deliver at some place and except these facts, there is no any material to show the petitioner's direct involvement in the alleged smuggling of the contraband and the provisions of Section 37 of NDPS Act are not applicable in respect of the petitioner. Further submission is that the petitioner has fair and clean antecedent.

5. Learned APP appearing for the State has opposed the bail prayer.

6. Heard both the sides and perused the FIR as well as case diary of this case. As the alleged contraband was recovered from the conscious possession of the co-accused and petitioner was simply alleged to be a companion of the said accused when



the police apprehended them and the main grounds on the basis of which, the petitioner has been made accused are that he was firstly found in the company of the said co-accused and secondly he made an attempt to flee after seeing the police party when he and co-accused were apprehended and thirdly the confession made by him and co-accused person before the police but these materials are not sufficient to draw the inference that the petitioner is guilty of the alleged occurrence, in the opinion of this Court a lenient approach can be taken in respect of the petitioner's prayer, let the petitioner be released on bail in connection with Ramgarhwa P.S. Case No. 202 of 2022 (N.D.P.S. Case No.52 of 2022) on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the Court concerned.

(Shailendra Singh, J)

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