

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70311 of 2022

Arising Out of PS. Case No.-189 Year-2022 Thana- KHAJEKALA District- Patna

MD. TINKAL Son of Md. Riyazuddin @ Rajuddin Resident of Mohalla-
Mogalpura, Maula Shah Ki Bag, P.S- Khajekalan Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mritunjay Prasad Singh, Adv.

For the Opposite Party/s : Mr.Uma Shankar Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 25-05-2023 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

The petitioner seeks bail in connection with Special
Case No. 116 of 2022 arising out of Khajekalan P.S. Case No. 189
of 2022 dated 24.06.2022 registered for the offence under
Sections 20 and 22 of the NDPS Act.

Recovery is of 34.500 grams of smack.

Learned counsel appearing for the petitioner submits
that the petitioner is innocent and has falsely been implicated in
this case. He further submits that it appears from the F.I.R. itself
that total 34.500 puria of smack is alleged to have been recovered
from the possession of the petitioner. He further submits that the
prosecution has submitted charge sheet in this case without F.S.L.
report. He also submits that rigors of Section 37 of the NDPS act



does not apply in this case as the alleged recovery does not fall within the purview of commercial quantity, hence, there is no bar for this Court to grant the privilege of bail to the petitioner. The petitioners are rotting in judicial custody since 25.06.2022.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner and submits that the F.S.L report confirms that the recovered article is Morphine and petitioner carries six cases other than the present one.

Considering the facts and circumstances of the case, let the, above named, petitioner be released on bail, after framing of charge, on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-XXVI, Patna -cum- Special Judge, NDPS in connection with Special Case No. 116 of 2022 arising out of Khajekalan P.S. Case No. 189 of 2022 with 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/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled 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.



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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