

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75152 of 2023

Arising Out of PS. Case No.-371 Year-2023 Thana- MANER District- Patna

Hemant Kumar Son Of Arjun Rai Resident Of Village- Mahinawa Tola, Ps-
Maner, Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gajanan Mishra, Adv.

For the Opposite Party/s : Mr. Lalan Kumr, APP

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 19-12-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with
Special (N.D.P.S) Case No. 147 of 2023 arising out of Maner
P.S. Case No. 371 of 2023 registered for the offences punishable
under Sections 8(c), 20 (b) and 21 (b) of the N.D.P.S. Act.

3. As per prosecution case, it is alleged that 16
puria of smack was recovered from the possession of the
petitioner. However, the prosecution story reveals that total
21.56 gm of smack was recovered from possession of petitioner
and two other co-accused persons and they were apprehended
from the tempo in question.

4. Learned counsel for the petitioner submits that
petitioner is in custody since 21.05.2023 and bears no criminal



antecedent. Learned counsel orally submits that charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. He further submits that according to the prosecution version, there is recovery of 16 puria of smack from the possession of the petitioner. No distinct weight was given in respect of alleged recovery from the possession of the petitioner and the total recovery is also less than commercial quantity as total recovery is 21.56 gm of smack which falls under the purview of intermediary quantity as small quantity of smack is 5 gm and commercial quantity smack is 250 gm, as per N.D.P.S notification. He further submits that petitioner is quite innocent and has committed no offence as alleged in the FIR. Petitioner is victim of circumstances. Learned counsel further submits that no incriminating article has been recovered from the possession of the petitioner. Search and seizure was conducted in utter violation of mandatory provision of Section 50 of N.D.P.S. Act. He further submits that co-accused Guddu Kumar and Saurabh Kumar have already been granted bail vide Cr. Misc. No. 58579 of 2023 and Cr. Misc. No. 56536 of 2023 by co-ordinate Benches of this Court and the case of present petitioner is identically same and on the principle of parity petitioner deserves bail.



5. The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

6. Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of the petitioner, co-accused have already been granted bail, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner above named be released on bail, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge XII, Patna in connection with Special (N.D.P.S) Case No. 147 of 2023 arising out of Maner P.S. Case No. 371 of 2023, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) 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.

iv) If the petitioner is found involved in similar nature of offences in future, the learned trial court shall be at liberty to cancel his bail bond.

(Alok Kumar Pandey, J)

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