

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75075 of 2023

Arising Out of PS. Case No.-647 Year-2023 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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Ankit Kumar S/O Late Gopal Prasad Gupta @ Late Gopal Prasad R/O
Mohalla- Rati Kali Gali Budanath, P.S.- Kotwali (Jogsar O.P.), Dist.-
Bhagalpur

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Davendra Kumar Pandey

For the Opposite Party/s : Mr.Jai Narain Thakur

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 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
Kotwali (Jogsar) P.S. Case No. 647 of 2023 registered for
the offences punishable under Sections 21 (b) and 22 of
N.D.P.S Act, 1985.

3. As per prosecution case, 64 gm of brown
sugar (heroine) was said to have recovered from the
possession of co-accused Shubham Kumar, 33 gm of brown
sugar (heroine) was recovered from the possession of the
petitioner and 9 gm of brown sugar (heroine) was recovered
from the possession of the co-accused Deepak Kumar. In



this way, there is total recovery of 106 gm of brown sugar (heroine) from the possession of petitioner and others.

4. Learned counsel for the petitioner submits that petitioner is in custody since 14.07.2023 and bears no criminal antecedent. He further submits that alleged recovery of brown sugar (heroine) from the possession of the petitioner is 33 gm which falls under the purview of intermediary quantity as small quantity of brown sugar (heroine) is 5 gm and commercial quantity brown sugar (heroine) is 250 gm, as per N.D.P.S notification. He further submits that notice under Section 50 of N.D.P.S. Act is not properly served in the case. He further submits that seizure list has not been prepared as per law. Learned counsel further submits that co-accused, Shubham Kumar, against whom there is allegation of recovery of 64 gm of brown sugar, has already been granted bail vide Cr. Misc. No. 58651 of 2023 by a co-ordinate Bench 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 has 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 District and Sessions Judge, Bhagalpur in connection with Kotwali (Jogsar) P.S. Case No. 647 of 2023, N.D.P.S. Case no. 91 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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