

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73949 of 2023

Arising Out of PS. Case No.-223 Year-2023 Thana- JOGBANI District- Araria

SARBAN MANDAL @ SHARWAN MANDAL Son of Sukal Mandal
Resident of Village - Dakshin Maheshwari, Ward No.- 18, P.S.- Jogbani, Dist-
Araria

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ramesh Kumar Singh

For the Opposite Party/s : Mr.Yogendra Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 30-11-2023 Heard learned counsel for the petitioner and

learned A.P.P. for the State.

2. The petitioner seeks bail in connection with
Jogbani P.S. Case No. 223 of 2023 corresponding to
Special Case No. 71 of 2023 registered for the offences
punishable under Sections 17, 18, 22 of N.D.P.S. Act.

3. As per prosecution case, 19 gram Smack
including polythene is said to have been recovered from
possession of the petitioner. It is further alleged that
100 gram Smack including polythene, digital electronic
weight machine, knife, scissor and blade are said to



have been recovered from possession of co-accused Manoj Yadav.

4. Learned counsel for the petitioner submits that petitioner is quite innocent and has not committed any offence as alleged in the FIR and he has falsely been implicated in this case only on suspicion. He further submits that from perusal of the FIR itself it is not found that sample was made from seized contraband items at the place of occurrence which is clear cut violation of N.D.P.S. Act. He further submits that informant has also failed to follow the mandatory provision of Sections 41, 42, 43, 44 and 50 of N.D.P.S. Act. Seizure list witnesses are police personnel. Petitioner is in custody since 21.08.2023 and bears no criminal antecedent. He further submits that as per N.D.P.S. notification, small quantity is 5 gram and commercial quantity is 250 gram. Under such circumstance, alleged recovery of 19 gram Smack from possession of petitioner is much less than commercial quantity. Learned counsel orally submits that



charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence.

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 petitioner, 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. 25,000/- (rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned District and Sessions Judge cum Special Judge, NDPS Act, Araria in connection with Jogbani P.S. Case No. 223 of 2023 corresponding to Special Case No. 71 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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