

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73035 of 2022**

Arising Out of PS. Case No.-469 Year-2021 Thana- GAYA MUFASIL District- Gaya

Suraj Kumar Son of Ashok Singh @ Akash Singh Resident of Village -
Barchaita, P.S.- Tankuppa, District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shankar Kumar, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Singh, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

2 10-04-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, if any, within
a period of four weeks from today.

Petitioner seeks bail who is in custody since
13.09.2021 in connection with N.D.P.S. Case No. 69 of 2021
arising out of Mufassil P.S. Case No. 469 of 2021, F.I.R. dated
11.09.2021 for the offences punishable under Sections 20(II)(c)
and 22(c) of the N.D.P.S. Act.

According to prosecution case, total 2200 gm of
brown sugar was recovered from the dicky of the motorcycle
which was seized by the police from the accused persons
including the petitioner.



Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that in fact, the recovery has been made from the motorcycle in question which does not belong to the petitioner.

Learned counsel for the petitioner relying upon the order dated 13.03.2023 passed in Cr. Misc. No. 62151 of 2022 in which F.S.L. report was called and the F.S.L. report dated 26.05.2022 reveals that “No Brown Sugar or Heroin, a Dia acetyl derivative of Morphine could be detected in the contents of polythene envelope”. He further submits that in view of the F.S.L. report no case is made out against the petitioner under the N.D.P.S Act. He further submits that the similarly situated co-accused person, namely, Raja Kumar @ Gulshan Kumar has been granted bail by this Court Vide order dated 12.12.2022 passed in Cr. Misc. No. 42905 of 2022 and another co-accused person, namely, Suman Kumar has been granted bail by this Court Vide order dated 13.03.2023 passed in Cr. Misc. No. 62151 of 2022. He further submits that the police after investigation submitted the charge sheet against the petitioner. The petitioner is in custody since 13.09.2021.

The learned Additional Public Prosecutor has



vehemently opposed the prayer for bail of the petitioner.

Considering the aforesaid facts and circumstances and and in view of the F.S.L. report, no case is made out under the N.D.P.S. Act, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge-cum Special Court of NDPS Act, Gaya in connection with N.D.P.S. Case No. 69 of 2021 arising out of Mufassil P.S. Case No. 469 of 2021, subject to 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 absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled 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.

3. 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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