

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15179 of 2024

Arising Out of PS. Case No.-521 Year-2023 Thana- KISHANGANJ District- Kishanganj

Md. Abdul Salman @ Akhtar S/o Late Abbas R/o Bihar Bus Stand, ward no.
24, P.S. - Kishanganj, Distt. - Kishanganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Rajiv Nayan, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

- 2 14-03-2024 **1.** Heard learned counsel appearing on behalf of the petitioner and learned Additional Public Prosecutor appearing on behalf of the State.
- 2.** The accused/petitioner is named in the F.I.R. and apprehending his arrest in connection with Kishanganj P.S. Case No. 521 of 2023 registered for the offences punishable under Sections 8 C, 21 (b) and 29 of the N.D.P.S. Act.
- 3.** The allegation against the petitioner is to found in possession of 220 sachets having total of 53.90 grams of smack alongwith cash of Rs. 21,257/-.
- 4.** Learned counsel appearing on behalf of the



petitioner submitted that alleged recovery was made from the jacket of petitioner, who is a man of clean antecedent. It is further submitted that said recovery as alleged was not made from the conscious physical possession of this petitioner. It is also submitted that compliance of Section 50 of the N.D.P.S. Act regarding search upon person also not appears followed in this case. While concluding the argument it is submitted that alleged recovered quantity is less than commercial quantity, where rigorous provision of Section 37 of the N.D.P.S. Act also not appears applicable in this case.

5. Learned APP appearing on behalf of the State, while opposing the prayer for bail submitted that as per seizure list, alleged smack appears to be recovered from the jacket of petitioner which he left during scuffling having 220 sachets. It is submitted that though recovered quantity is less than commercial quantity but the activities, *prima facie*, suggest that petitioner was involved in trading of narcotics. It is



further submitted that FIR, *prima facie*, suggests involvement of petitioner, in view of Section 35 of the N.D.P.S. Act 1985, which shows *prima facie*, culpable mental state of petitioner from the facts as available through FIR.

6. In view of the facts and circumstances as mentioned above and by taking note of the fact as 53.90 grams of smack was recovered from the jacket of the petitioner, who managed to escape from the police custody, the prayer of anticipatory bail of the petitioner is rejected herewith.

(Chandra Shekhar Jha, J.)

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