

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25818 of 2024

Arising Out of PS. Case No.-179 Year-2023 Thana- KUNDWACHAINPUR District- East
Champaran

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Chandan Kumar Singh @ Chandan Kumar Son of Rambabu Prasad Resident
of Village- Basantpur, Kundawa Chainpur P.S.- Kundawa Chainpur, District-
East Champaran at Motihari

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Singh, Sr. Adv
Mr. Manish Kumar Singh, Adv

For the Opposite Party/s : Mr. Shrikesh Kr. Singh, Adv
Mr. Chandra Bhushan Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 06-05-2024 1. Heard learned senior counsel for the petitioner, Mr.
R.K. Singh and learned A.P.P. for the State, Mr. Chandra
Bhushan Prasad.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Section 20(b)ii(B)
of NDPS Act.

3. Learned counsel for the petitioner submits that the
petitioner is a person with clean antecedent and has been falsely
implicated in the instant case based on the confessional
statement of apprehended accused in police custody, which does
not have any evidentiary value. It is next submitted that the
informant alleges that one Shatrudhan Mahto was apprehended



with 490 grams of *charas* along with 40 grams of brown sugar and he disclosed before the police that the narcotics was given to him by the petitioner, based on which the petitioner came to be implicated. It is next submitted that recovery of narcotics is less than commercial quantity but more than small quantity.

4. The learned counsel submits that apart from the confessional statement of Shatrudhan, nothing has transpired during the course of investigation which could even remotely connect the petitioner with the offence. It is next submitted that the Hon'ble Supreme Court in the case of *State by Narcotics Control Bureau vs. Pallulabid Ahmad Arimutta & Anr., SLP (Crl.) No. 242 of 2022* along with other cases at paragraph 10 has held that in *Tofan Singh vs. the State of Tamil Nadu* reported in *(2021) 4 SCC 1*, it has been held that confessional statement recorded under Section 67 of the NDPS Act will remain inadmissible in trial of an offence under the Narcotic Drugs and Psychotropic Substances Act. The learned senior counsel thus submits that confessional statement of the accused Shatrudhan recorded under Section 67 of the NDPS Act is not admissible for the purposes of trial, then whether it would be prudent to send the petitioner to jail based on his confession when petitioner is a person with clean antecedent.



5. The learned APP, Mr. Chandra Bhushan Prasad opposes the anticipatory bail application of the petitioner and submits that no doubt what has been submitted by the learned senior counsel for the petitioner with respect to admissibility of confessional statement recorded under section 67 of the NDPS Act cannot be countenanced but then it is a case registered under the NDPS Act and the investigation is in its nascent stage and in the event if anticipatory bail is granted to the petitioner, the petitioner may abscond.

6. The learned senior counsel for the petitioner submits that petitioner will not abscond rather will cooperate in the investigation.

7. Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 50,000/- (Rupees Fifty Thousand) each with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Kundawa Chainpur P.S. Case No. 179 of 2023, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.



8. One of the bailers of the petitioner shall be his father, Rambabu Prasad.

9. However, in the event if the investigating officer of the case files an application before the learned trial court bringing to its notice that petitioner, despite giving assurance to this court, is not cooperating in the investigation or is not presenting himself as and when required, the learned trial court shall forthwith cancel the bail bonds of the petitioner and shall take all coercive steps to ensure that petitioner is behind bars.

10. It is further made clear that in the event if charge-sheet is submitted connecting the petitioner with the offence, in that event the present anticipatory bail order shall lose its effect.

11. Let a copy of this order be sent to the concerned P.S. through the learned trial court for its compliance.

(Satyavrat Verma, J)

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