

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33008 of 2024

Arising Out of PS. Case No.-196 Year-2023 Thana- JANKINAGAR District- Purnia

Mukesh Kumar @ Mukesh Kumar Yadav S/o Shobha Kant Yadav @
Shobhakant Yadav R/o Rampur Tilak, ward no. 11, P.s. - Janki Nagar, Distt. -
Purnea

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.N.K. Agrawal
Mr. Md Fazle Karim
For the Opposite Party/s : Mr.Anil Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 02-08-2024 Learned counsel for the petitioner is permitted to make
necessary correction in para 1 of the bail petition.

2. Heard learned counsel for the petitioner and learned
A.P.P. for the State.

3. The petitioner seeks bail in connection with Suppl.
Special Case No. 121 of 2023, arising out of Jankinagar P.S. Case
No. 196 of 2023 registered for the offences punishable under Section
8(c) and 21(b) of the N.D.P.S. Act.

4. As per prosecution case, 12 gm of smack (brown
sugar) was recovered under the bed of the co-accused Abhimanyu
Kumar Yadav and he disclosed that he purchased the said smack
from his brother- Mukesh Kumar (petitioner).

5. Learned counsel for the petitioner submits that
petitioner is in custody since 17.01.2024. He further submits in para



3 of the bail petition that prior to the present case petitioner bears no criminal antecedent but after institution of the present case, one case has been lodged against the petitioner in which he is already on bail. Learned counsel further submits that except disclosure of co-accused, Abhimanyu Kumar Yadav, there is nothing on record to demonstrate the complicity of petitioner with the alleged occurrence. He further submits that after judgment of Hon'ble Supreme Court in the case of ***Tofan Singh Vs. State of Tamil Nadu*** reported in ***[2020] 12 S.C.R. 583*** confessional statement has no meaning at all. Learned counsel submits that charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. He further submits that alleged recovery of smack is 12 gm which falls under the purview of intermediary quantity as small quantity of smack is 5 gm and commercial quantity smack is 250 gm, as per N.D.P.S notification. He further submits that alleged recovery is made from the co-accused, Abhimanyu Kumar Yadav. No incriminating article has been recovered from the conscious possession of the petitioner. He further submits that petitioner is quite innocent and has committed no offence as alleged in the FIR.

6. The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

7. Considering the facts and circumstances of the case, period of custody, 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 Special Judge, N.D.P.S. Act, Purnea in connection with Special Case No. 121 of 2023, arising out of Jankinagar P.S. Case No. 196 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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