

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34109 of 2024

Arising Out of PS. Case No.-204 Year-2023 Thana- SONBERSA District- Sitamarhi

Awadhesh Sah S/o Late Nagendra Sah R/o vill - Lalbandi, P.S. - Lalbandi,
Distt. - Sarlahi, Nepal

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha, Advocate

For the Opposite Party/s : Mr. Mritunjay Kumar Nirala, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 31-07-2024 Heard the learned Advocate for the petitioner and the
learned APP for the State.

2. The petitioner seeks regular bail, who is in custody
in connection with Sonbarsa P.S. Case No. 204 of 2023,
registered for the offence punishable under Section 21(b) of the
N.D.P.S. Act.

3. Allegedly, the petitioner was apprehended by the
police personnels while he was crossing the Indo-Nepal Border.
On search, total 69 strips of Nitrovet 10 mg tablet was
recovered, each contains 30 tablets and, as such, 2070 tablets
have been recovered from the possession of the petitioner.

4. There is total denial of recovery on the part of the
petitioner. Learned Advocate for the petitioner contended that
nothing has been recovered from the possession of the



petitioner. However, during the course of crossing of the border, some altercation took place, whereupon his name has been implicated. It is next contended that the Nitrovet 10 mg tablet is a scheduled – H drug which can be given under prescription only and the same is not banned in India. Even if the allegation is taken to be true, though the alleged recovered Nitrovet 10 mg tablet is more than small quantity but lesser than commercial quantity and, as such, the rigors provided under Section 37 of the N.D.P.S. Act is not applicable. It is further contended that there is no compliance of mandatory provisions of Section 50 of the N.D.P.S. Act. Moreover, the seizure list witnesses are none else but the police personnels. It is also the contention of the petitioner that he has been in custody for over a period of 13 months, having fair antecedent.

5. On the other hand, learned APP for the State vehemently opposes the bail application and submits that the Nitrovet 10 mg tablet is used for the purposes of treatment of insomnia and epilepsy. However, now the rackets are running wherein, the medicines are supplied to young boys and girls for the purposes of intoxication.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the alleged



recovered Nitrovet 10 mg tablet tablets are below the commercial quantity, coupled with the fact that the investigation of the crime is complete and the charge-sheet has been submitted and the petitioner has been incarcerated since 26.06.2023, having fair antecedent, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Sitamarhi in connection with Sonbarsa P.S. Case No. 204 of 2023, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.
- (v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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