

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40942 of 2024

Arising Out of PS. Case No.-98 Year-2024 Thana- HARSIDHI District- East Champaran

Deepdeo Mahto @ Dipdev Mahto @ Deepdeo Mahato Son of Late Raja
Mahto Resident of Village- Sonbarsa, P.S- Harsidhi, Dist- East Champaran

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar, Advocate
For the Opposite Party/s : Mr.Nand Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 12-06-2024 Heard learned counsel appearing on behalf of the

petitioner and learned A.P.P. for the State.

2. Petitioner seeks bail in connection with Harsidhi
P.S. Case No. 98 of 2024 registered for the offences under
Sections 21(b) of the Narcotic Drugs and Psychotropic
Substances Act (in short the 'NDPS Act') and Section 30(a)
of the Bihar Prohibition and Excise Act.

3. The petitioner is named in the First Information
Report and is in custody since 29.02.2024.

4. Allegation against the petitioner is to have in
possession of four liters of spirit and also 30 tablets of Anxit
0.5.

5. It is submitted by learned counsel appearing on



behalf of the petitioner that from bare perusal of F.I.R., it is nowhere appears that this case is *prima-facie* related with NDPS Act. It is pointed out that even the composition of narcotic substance is not explained through F.I.R. It is submitted that implication of the petitioner primarily appears due to possession of spirit which is in violation of Bihar Excise Act. It is submitted that in absence of specified composition and quantity, it is almost difficult to ascertain that whether the tablets, which were seized as Anxit 0.5, were having of any composition, which falls under the category of commercial quantity as to import the provision of Section 37 of NDPS Act. It is submitted by learned counsel that the motorcycle is not connected in any manner with this petitioner and the same belongs to one Murat Sah and, as such, it can be safely said that the recovery not appears to be made from conscious physical possession of this petitioner. It is further submitted that seizure list appears disputed being not supported by independent witnesses rather by the police. While concluding argument, learned counsel submitted that investigation of this case is



completed, where charge-sheet has already submitted, and as such, there is no chance of tampering with the evidence.

6. Learned A.P.P. for the State has opposed the prayer for bail of the petitioner.

7. In view of aforesaid facts and circumstances and by taking note of the fact that recovery of alleged spirit and tablets not appears to be made *prima-facie* from conscious physical possession of this petitioner, coupled with the fact that investigation of this case is completed, where charge-sheet has already been filed, accordingly, above-named petitioner is directed to be released on bail in connection with Harsidhi P.S. Case No. 98 of 2024 on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No. 1, Civil Court, East Champaran, Motihari, subject to the condition as laid down under Section 437 (3) Cr.P.C.

(Chandra Shekhar Jha, J.)

Rajeev/-

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