

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50752 of 2024

Arising Out of PS. Case No.-234 Year-2024 Thana- MUZAFFARPUR TOWN District-
Muzaffarpur

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Md. Tinku @ Aslam Kuraishi @ Aslam Kureshi S/o- Md. Chand Kuraishi
R/o- Mahraji Pokhar Bakdi Mandi Ps- town Dist- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar S.K.
For the Opposite Party/s : Mr. Prem Kumar Jha

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 24-07-2024 Heard learned Advocate for the petitioner and learned
Additional Public Prosecutor for the State.

2. This is an application for grant of bail to the petitioner, who is in custody in connection with Muzaffarpur Town P.S. Case No. 234 of 2024, registered for the offences punishable under Sections 8(C), 21(b) of the Narcotic Drugs and Psychotropic Substances Act.

3. The police in course of patrolling on a confidential information apprehended two persons. On search from the possession of the petitioner 35 sachets of smack like substance has been recovered, the weight of which comes to 12 grams.

4. There is total denial of the prosecution case. Learned Advocate for the petitioner contended that there is



complete defiance of the mandatory provisions of Sections 42 and 50 of the NDPS Act. The weight has been measured along with the sachets only in order to show that the smack like substances is more than small quantity. It is also the contention of the petitioner that the alleged recovered substance is much below the commercial quantity and as such the rigors provided under Section 37 of the NDPS Act is not applicable. The petitioner is in custody since 30.03.2024. Chargesheet has been submitted without the FSL report and as such continuation of the proceeding is bad. There are various other infirmities in search, seizure and sampling of the recovered substance. It is next contended that the reason for false implication of the petitioner is one criminal case of identical nature, wherein the name of the petitioner has surfaced on the confessional statement of co-accused is the contention of the learned Advocate for the petitioner.

5. On the other hand, learned APP for the State vehemently opposes the bail application and submits that the recovery of smack like substance has been made from the exclusive possession of the petitioner and earlier also he was found involved in identical nature of crime.

6. Regard being had to the submissions made on



behalf of the parties and considering the fact that the alleged recovered smack like substance is though more than small quantity but much below the commercial quantity and as such the rigors provided under Section 37 is not applicable and also the fact that the investigation of the crime is complete and chargesheet has been submitted that too without FSL report, coupled with the infirmities in search and seizure as shown by the petitioner, let the petitioner, abovenamed, be released on bail on furnishing bail bonds of Rs. 25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge, Muzaffarpur in connection with Muzaffarpur Town P.S. Case No. 234 of 2024, subject to the condition that one of the bailors shall be the own/close family members 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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