

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44157 of 2024

Arising Out of PS. Case No.-19 Year-2024 Thana- YADOPUR District- Gopalganj

Mohammad Afroj Alam @ Md. Afroj Alam @ Md. Afraj Alam, Son of Md. Alam @ Md. Allam, R/O Vill.- Khajuriya, P.S.- Nagar, District- Gopalganj

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shashank Shekhar, Adv.

For the State : Mr. Vinod Shanker Modi, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 03-07-2024 Heard Mr. Shashank Shekhar, learned advocate for the petitioner and Mr. Vinod Shekhar Modi, learned Additional Public Prosecutor for the State.

2. The petitioner seeks regular bail, who is in custody in connection with Jadopur P.S. Case No. 19 of 2024 registered for the offence punishable under Sections 8(c) and 21(b) of the N.D.P.S. Act.

3. Allegedly, on a tip-off the police apprehended the petitioner. On search 36 gm of Smack like substance along with cash of Rs. 5500 was recovered.

4. Learned advocate for the petitioner referring to the F.I.R. contended that apart from the serious discrepancies in the search and seizure, admittedly, there is no compliance of Sections 42 and 50 of the N.D.P.S. Act. It is further contended



that the prosecution alleges that the petitioner was apprehended on a tip-off selling drugs but surprisingly the same has not been reduced into writing this also doubts of the prosecution case. It is also the contention of the petitioner that even as per the allegation the recovered smack like substance has been weighed along with the plastic box which came to 36 gm, though, it is more than small quantity but much lesser than commercial quantity and as such the rigors provided under Section 37 of the N.D.P.S. Act could not be applicable. Petitioner is in judicial custody since 17.02.2024 having one criminal antecedent, but of different nature.

5. On the other hand, learned APP for the State vehemently opposes the bail application and submits that the alleged recovered smack like substance has been recovered from the exclusive possession of the petitioner.

6. Regard being had to the submissions made on behalf of the parties and considering the submissions of the petitioner, who pointed out various shortcomings in the search and seizure and the fact that the investigation of the crime is complete; charge-sheet has been submitted and the recovered smack like substance is below the commercial quantity, let the petitioner, named above, be released on bail on furnishing bail



bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties
of the like amount each to the satisfaction of learned 1st
Additional Sessions Judge, Gopalganj in connection with
Jadopur P.S. Case No. 19 of 2024.

(Harish Kumar, J)

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