

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46781 of 2024

Arising Out of PS. Case No.-4 Year-2024 Thana- KUWARI District- Araria

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Mubarak Hussain @ Mubarak Md. Ibrahim R/O Of Telaniya Rahika,
Barsauni, P.S. - Dagarua, District- Purnea

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md Fazle Karim, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 10-07-2024 Heard learned Advocate for the petitioner and the

learned A.P.P. for the State.

2. The petitioner seeks regular bail, who is in custody

in connection with Kuwari P.S. Case No. 04 of 2024 registered

for the offences punishable under Sections 8(c) and 21(B) of the

N.D.P.S. Act.

3. The police on a tip of trade of contraband

apprehended three persons including the petitioner who were

coming on a motorcycle. On search, 50.40 gm. smack was

recovered from the Mohammad Saddam, 52 gm. smack was

recovered from the Arif and 62 gm. smack was recovered from

the petitioner. Thus, total 164.4 gm. smack was recovered from

the possession of the apprehended persons.

4. Learned Advocate for the petitioner contended that

apart from the fact that there is no compliance of sections 42

and 50 of the NDPS Act. There are other infirmities in the



search and seizure. It is further contended that the manner in which recovery has been shown appears to be doubtful inasmuch as the alleged recovered smack like substance from the possession of the petitioner is 62 gm. which is though more than small quantity but much less than commercial quantity and as such the rigors provided under section 37 of the NDPS Act is not applicable. The petitioner bears fair antecedent and he has been incarcerated since 05.04.2024. Learned Advocate further submits that the charge-sheet has been submitted.

5. On the other hand, learned APP for the State vehemently opposes the bail application and submits that all the accused persons including the petitioner were found in possession of the smack and their complicity cannot be denied.

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 below the commercial quantity, coupled with the fair antecedent and the fact that the investigation of the crime is complete, 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 the court of Sessions Judge-cum-Special Judge, NDPS Act, Araria in connection with



Kuwari P.S. Case No. 04 of 2024, 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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