

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44672 of 2024

Arising Out of PS. Case No.-320 Year-2023 Thana- MUZFFARPUR GRP CASE District-
Muzaffarpur

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Md. Suleman @ Md. Sulman @ Babu Son of Md. Aslam R/O- Mohalla-
Maripur, Chitraguptpuri, Bakhshi Colony, Ward No. 8, P.S.- Kazi
Mohammadpur, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar, Adv.

For the Opposite Party/s : Mr. Choubey Jawahar, APP

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**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

5 25-10-2024 Heard Mr. Anil Kumar, learned counsel for the

petitioner and Mr. Choubey Jawahar, learned APP for the State.

2. The petitioner seeks bail in connection with
N.D.P.S. Case No. 178 of 2023 arising out of Muzaffarpur GRP
P.S. Case No. 320 of 2023 instituted for the offences under
Sections 401, 413, 414 of the Indian Penal Code and Section
22(a) of the N.D.P.S. Act.

3. As per prosecution case, the police has recovered
two mobile phones, a strip of 20 tablets of *Ativan* 2mg
Lorazepam Tablets I.P. 2 mg from which three tablets were
taken out and a piece of blade wrapped in paper from the
possession of the petitioner.



4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence as alleged against him and has falsely been implicated in the present case merely on the basis of suspicion. He further submits that nothing incriminating has been recovered from the conscious possession of the petitioner. The petitioner has no concern with the seized articles. There is a non-compliance of Section 100 of the Cr.P.C. which creates a serious doubt in the prosecution case. The petitioner has one criminal antecedent and is languishing in judicial custody since 12.09.2023 without any rhymes or reason. The quantity of alleged contraband recovered is less than the small quantity. Hence, Section 37 of the N.D.P.S. Act is not applicable in the present case. There is no compliance of Section 42 and 50 of the N.D.P.S. Act.

5. Learned counsel for the petitioner again submits that the co-accused namely Goltu @ Mohammad Farhan @ Goltu Kumar has been granted bail by this Court vide order dated 20.04.2024 passed in Cr. Misc. No. 29000 of 2024.

6. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner.

7. Learned counsel for the State has filed counter affidavit. In paragraph no.12 thereof, it has been stated that one



tablet contains 2 mg and altogether 17 tables of Ativan of 2mg has been recovered from the possession. Hence, altogether, 34 mg i.e. .034 gm of Narcotics has been recovered from the possession of the petitioner which comes under the purview of small quantity. It is further stated that the charge-sheet has also been submitted bearing charge-sheet no. 469 of 2023 under Section 401, 414 and 22(a) of the NDPS Act against the petitioners and other accused person.

8. Having heard rival contention of both the parties and considering the entire facts and circumstances of the case as also taking into account the period of custody of the petitioner and the recovered contraband being under the small quantity, let the petitioner, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with N.D.P.S. Case No. 178 of 2023 arising out of Muzaffarpur GRP P.S. Case No. 320 of 2023, subject to the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the petitioner.

(ii) The petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the



court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(Rudra Prakash Mishra, J)

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