

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45423 of 2023

Arising Out of PS. Case No.-73 Year-2023 Thana- BIRPUR District- Supaul

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LALAN MEHTA @ LALAN KUMAR MEHTA Son of Ramsagar Mehta
Resident of Village - Bela Ward No.- 4, P.S.- Narpatganj (Basmatiya O.P.),
District - Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate
		Mr. Arvind Kumar, Advocate
		Mr. Kumar Rajdeep, Advocate
For the Opposite Party/s :		Mrs.Anita Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA

ORAL ORDER

9 23-04-2024 Heard learned counsel for the petitioner and learned
APP for the State. Perused the case diary.

2. The petitioner seeks bail in NDPS (Special) Case
No. 17/2023 arising out of Birpur P.S. case No. 73/2023
instituted for the offences under Sections 8/20(b)(ii)(B), 21(b)
of the N.D.P.S. Act and Section 25(1-B)a and 26 of the Arms
Act.

3. Prosecution allegation, in short, is that on search
police recovered 8 kg ganja, 2100 tablets of Nitravet-10, 5970
capsules of Tramol-50, 1728 capsules of Spasmo-Proxyvon and
160 bottles of Dilex-DC cough syrup. The police further
recovered two country made loaded pistols, 10 live cartridges,



one empty cartridge besides Rs. 1,69,155 Nepali currency and some other documents.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. Charge-sheet has been submitted in this case without the F.S.L. report. Thereafter cognizance was taken against the petitioner. Learned counsel for the petitioner submits that the recovered cough syrup and medicines were manufactured as per standard prescription under the Drugs and Cosmetics Act. Hence, it does not come under the purview of N.D.P.S. Act. No incriminating material has been recovered from the conscious possession of the petitioner. So far recovery of contraband is concerned, the same is below the commercial quantity. Hence, Section 37 of the N.D.P.S. Act is not applicable in the present case. There is no compliance of Sections 42 and 50 of the N.D.P.S. Act. The petitioner is in custody for more than one year i.e. since 02.03.2023 and has got three criminal antecedents.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner.

6. Considering the aforesaid facts and circumstances of the case, the period of custody undergone by the petitioner



and the recovered contraband below commercial quantity, this Court is inclined to grant bail to the petitioner.

7. Let the petitioner 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 NDPS (Special) Case No. 17/2023 arising out of Birpur P.S. case No. 73/2023 subject to the following conditions:

(I) One of the bailors shall be own/close member of the family of the petitioner.

(II) The petitioner shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the petitioner.

(III) The petitioner will not hamper the trial or temper with any prosecution evidence. If he is found involved in such incidence, the prosecution shall have liberty to take steps for cancellation of bail granted to the petitioner.

(Rudra Prakash Mishra, J)

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