

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50681 of 2024

Arising Out of PS. Case No.-100 Year-2024 Thana- MITHANPURA District- Muzaffarpur

Gaurav Kuamr, S/O Sujit Ram @ Sujeet Ram, R/O Village- Chakbasu Durga
Mandir, P.S- Mithanpura, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Jyotsna Rani Mishra, Advocate

For the Opposite Party/s : Mrs. Suman Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 24-07-2024 Heard Mrs. Suman Kumari Singh, learned Advocate
for the petitioner and learned APP for the State.

2. The petitioner seeks regular bail, who is in custody in connection with Mithanpura P.S. Case No. 100 of 2024 registered for the offences punishable under Sections 8(c)/21(b) of the Narcotic Drugs and Psychotropic Substances, Act (hereinafter referred to as 'the NDPS Act').

3. On a secret information that some persons are engaged in selling of Smack like substance, the police reached at the place of occurrence, however, noticing the police party two persons tried to flee away, out of which the petitioner was apprehended. On search, 8 gm Smack like substance, in 18 sachets, were recovered from the possession of the petitioner.

4. There is total denial of the prosecution case. It is



contended that in fact nothing has been recovered from the possession of the petitioner and the person, who succeeded in fleeing away, has left the incriminating material at the place of occurrence, which later on, shown to be recovered from the possession of the petitioner. It is further contended that so far the recovered Smack like substance is concerned, though it is more than small quantity, but much below the commercial quantity and, as such, rigors provided under Section 37 of the NDPS Act would not be applicable. It is next contended that there is no compliance of mandatory provisions of Section 50 of the NDPS Act. That apart, the petitioner is in custody since 22.03.2024 and the charge-sheet has been submitted, but without the FSL report.

5. On the other hand, learned APP for the State vehemently opposes the bail application and submits that the contraband material 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 fact that the alleged recovered Smack like substance is much below the commercial quantity, coupled with the fact that charge-sheet has been submitted, but without the FSL report and the petitioner having got



fair antecedent, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge (NDPS Court No.2), Muzaffarpur in connection with Mithanpura P.S. Case No. 100 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.

(Harish Kumar, J)

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