

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54080 of 2024

Arising Out of PS. Case No.-71 Year-2023 Thana- KANGLI District- West Champaran

Manjit Kumar Son of Shyam Kumar Resident of Vill- Purvi Kargahiya, P.S.-
Bettiah (Muffasil), District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey, Adv.

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

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

ORAL ORDER

2 02-08-2024 Heard learned counsel for the petitioner and

learned APP for the State.

2. The petitioner seeks bail in connection with

Kangali P.S. Case No. 71 of 2023 instituted for the offences

under Sections 8/20(b)(ii)(C)/23(c) of the NDPS Act.

3. As per prosecution case, the police, has

recovered 500 grams of opium like substance from the

possession of co-accused Dheeraj Kumar.

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. The petitioner is not named in the F.I.R. The



petitioner was neither arrested from the place of occurrence nor anything incriminating has been recovered from his conscious possession. The petitioner is the owner of the motorcycle, in question. He submits that actually the co-accused Dheeraj Kumar had taken away his motorcycle for some personal work which was seized by the police and the petitioner had no knowledge regarding carriage of any contraband by the co-accused Dheeraj Kumar. The quantity of opium recovered is less than 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 Section 42 and 50 of the N.D.P.S. Act. There is no direct or specific allegation of any overt act against the petitioner rather the same is general and omnibus in nature. The petitioner has no concern with the seized liquor. There is a non-compliance of Section 100 of the Cr.P.C. which creates a serious doubt in the prosecution case. There is no FSL report to ascertain as to whether the alleged recovered article is Ganja or something else. The petitioner has no criminal antecedent and is languishing in judicial custody since 25.04.2024



without any rhymes or reason.

5. Learned counsel for the petitioner again submits that the co-accused namely Dheeraj Kumar has been granted bail by this Court vide order dated 02.04.2024 passed in Cr. Misc. No. 22595 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. 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 petitioner having no criminal antecedent, 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 Kangali P.S. Case No. 71 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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