

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53666 of 2024

Arising Out of PS. Case No.-102 Year-2024 Thana- JOGBANI District- Araria

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Noorjaan @ Noor Jahan @ Noor Jahan Khatoon @ Noor Jan Khatoon, W/O
Late Jamaluddin @ Jalim Miyan, R/O Village- Indira Nagar, Tikuliya Basti,
Ward No. 3, P.S- Jogbani, Distt.- Araria.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Munish Om Prakash Singh, Advocate

For the Opposite Party/s : Mr. Anant Kumar 1, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 25-09-2024 Heard learned Advocate appearing on behalf of the

petitioner and the learned Additional Public Prosecutor for the

State.

2. The application for grant of bail to the petitioner
who is in custody in connection with Jogbani P.S. Case No. 102
of 2024 registered for the offence punishable under Sections 21
& 22 of the NDPS Act.

3. The police on a tip off selling intoxicating
medicines conducted raid in the house of the petitioner,
however, noticing the police party the son and daughter-in-law
of the petitioner succeeded in fleeing away, however, the
petitioner was apprehended while she was trying to flee away by
the police. On search various medicines and injections which is



used for the purposes of intoxication were recovered. It is specifically alleged that the bag which was carried by the petitioner, (i) Promethazine Hydrochloride Injection-785 pieces, (ii) Lupigesic Injection-300 pieces and (iii) Pheniramine Maleate Injection-320 pieces were recovered.

4. Learned Advocate appearing on behalf of the petitioner contended that the from the narratives made in the FIR it is evident that when the police conducted raid the other two co-accused persons have succeeded in fleeing away after throwing their bags and in fact, the entire recovery has been made from the bags which were thrown by the co-accused persons, however, only on account of the fact that the petitioner being mother of the co-accused Md. Sadrul, her name has been implicated in this case. It is further contended that the petitioner is a lady, aged about 65 years, but on account of the complicity of her son in illegal activities, she has been regularly harassed by the police. Earlier also an identical nature of case has been instituted against her, the particulars of which has been mentioned in paragraph no. 3. There is other infirmities in the search and seizure coupled with the fact that the petitioner has been incarcerated since 19.05.2024.

5. On the other hand, learned Additional Public



Prosecutor for the State vehemently opposes the bail application and submits that the recovery has been made from the conscious possession of the petitioner which suggest that huge amount of narcotic drugs and the medicines which are being used as intoxicants. Moreover, in the case of seizure of mixture of the NDPS with one or more neutral substances, the quantity of neutral substances is to be taken into consideration alongwith actual contents by weight of offending drugs, while determining the quantity, is the settled law.

6. So far the law with regard to determination of quantity in case of mixture of offending drugs and psychotropic substance with the neutral substance(s) is concerned the same is already crystallized by the Hon'ble Supreme Court in the case of **Heera Singh vs. Union of India** [2020 SCC online SC 382].

7. However in the case in hand the mode and manner in which search and recovery is made does not inspire confidence; apart from non-compliance of mandatory provisions of NDPS Act.

8. Regard being had to the submissions made on behalf of the parties and considering the allegation levelled in the FIR suspecting the recovery from the possession of the



petitioner and the petitioner being a lady; the investigation of the crime is complete and the chargesheet has been submitted, however, without there being any FSL report, 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 Sessions-cum-Special Judge, N.D.P.S. Act, Araria in connection with Jogibani P.S. Case No. 102 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) She will remain present on each and every date of trial till disposal of the case.

(iii) She 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, her 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 her 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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