

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58437 of 2024

Arising Out of PS. Case No.-445 Year-2023 Thana- MANER District- Patna

Shubham Kumar Son of Ramesh Prasad Village- Char Hazar Mohalla, Ps-
Maner, Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mohit Raj, Advocate

For the Opposite Party/s : Mr. Murli Dhar, APP

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

ORAL ORDER

3 06-12-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. Earlier, vide order dated 18.03.2024 passed in Cr.
Misc. No. 19342 of 2024, the prayer for grant of bail of the
petitioner was rejected by this Court. This is second attempt of
the petitioner for grant of bail.

3. The petitioner seeks bail in connection with Maner
P.S. Case No. 445 of 2023 instituted for the offences under
Sections 8(c), 20(B), 21(c) of the N.D.P.S. Act.

4. Prosecution case, in short, is that 275 grams of
smack, 25 grams opium and 5 grams of some grey coloured
contraband has been recovered in this case.

5. Learned counsel for the petitioner submitted that the



petitioner has falsely been implicated in the present case. Learned counsel for the petitioner has filed the supplementary affidavit in the matter and submitted that earlier, vide order dated 18.03.2024 passed in Cr. Misc. No. 19342 of 2024 the prayer of the petitioner for grant of bail was rejected on the basis of the allegations made in the FIR as the seized contraband were more than commercial quantity. Learned counsel further submitted that after the passing of the aforesaid order, FSL report was filed and from perusal of the same, the recovered contraband is found to be 07.65 gram Codeine which is just above the small quantity, 07.57 gram Morphine which is also just above the small quantity but far below the commercial quantity and 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. Petitioner is in custody since 13.06.2023 and has two criminal antecedents. There is no allegation of tampering of witnesses alleged against the petitioner. No incriminating material has been recovered from the conscious possession of the petitioner. The co-accused person has already been granted bail by this Court vide order dated 10.07.2024 passed in Cr. Misc. No. 4788 of 2024.

6. Learned A.P.P. for the State has vehemently



opposed the prayer for grant of bail to the petitioner.

7. Considering the aforesaid facts and circumstances of the case and the seized contraband being less than commercial quantity as per the FSL report, as also the period of custody undergone by the petitioner, this Court is inclined to grant bail to the petitioner.

8. 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 Maner P.S. Case No. 445 of 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.

9. Learned Trial Court is directed to expedite the trial.

(Rudra Prakash Mishra, J)

Alok Verma/-

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