

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64339 of 2024

Arising Out of PS. Case No.-298 Year-2024 Thana- NAUBATPUR District- Patna

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Kishan Kumar Son of Dhirendra Singh @ Sipahi Singh @ Sipahi Jee
Resident of Village - Chehchol, P.S.- Naubatpur, District - Patna (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. N K Agarwal, Sr. Advocate Mr. Sunil Kumar Pathak, Advocate Mr. Kumar Rajdeep, Advocate
For the Opposite Party/s :		Mr. Mritunjay Kumar Nirala, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 20-11-2024 Heard the learned Advocate for the petitioner and the

learned APP for the State.

2. The petitioner seeks regular bail, who is in custody
in connection with Special Case (N.D.P.S.) Case No. 114 of
2024, arising out of Naubatpur P.S. Case No. 298 of 2024,
registered for the offence punishable under Sections 21(b)/8(c)
of the N.D.P.S. Act and Section 25(1-B)a, 26 and 35 of the Arms
Act.

3. Allegedly, on a secret information, the police
apprehended the petitioner along with one another person, who
were coming on a four wheeler. On search, one pistol and four
live cartridges along with 5 gm brown sugar like substance in a
sachet were recovered.



4. Learned Senior Advocate appearing on behalf of the petitioner contended that so far the recovery of brown sugar like substances is concerned, admittedly the same is within the small quantity and, as such, the rigors provided under Section 37 of the N.D.P.S. Act would not be applicable. Moreover, even for the said offence, if proved, punishment is provided only for imprisonment of one year. It is next contended that so far the recovery of arms and live cartridges are concerned, that also appears to be doubtful, inasmuch as, there is no independent witnesses to the search and seizure and there is only police personnels, who have conducted the search and seizure. It is next contended that the petitioner is neither owner of the car nor he has any concern with the recovered articles; only on account of his past criminal antecedent, his name has been implicated in this case. Drawing the attention of this Court to paragraph no. 3, learned Senior Advocate further contended that out of 12 criminal cases pending against the petitioner, the petitioner has not named in 11 of them. However, in all the cases, the petitioner is on bail. Be that as it may, now the investigation of the crime is complete and the charge-sheet has been submitted.

5. On the other hand, learned APP for the State vehemently opposes the bail application and submits that the



long list of criminal antecedent of the petitioner speaks loud about his involvement in such crime.

6. Regard being had to the submissions made on behalf of the parties and considering the period of custody and the fact that the investigation of the crime is complete and the charge-sheet has been submitted. So far the alleged recovered brown sugar like substance is concerned, the same is under small quantity. Suffice it to observe that mere criminal antecedent of a person, cannot be a sole ground to keep him behind the bar for an indefinite period, if there is no cogent material warranting his incarceration for longer period, 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 Exclusive Special (N.D.P.S. Act) Court No.-1, Patna in connection with Naubatpur P.S. Case No. 298 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.

(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 his 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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