

IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.70886 of 2024

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

Md. Sadrul @ Md. Sadrul Ansari @ Sadrul Ansari, S/o Late Jamaluddin @  
Jalim Miyan, Resident of Village- Indra Nagar, (Tikuliya Basti), PS- Jogbani,  
Distt. - Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with  
CRIMINAL MISCELLANEOUS No. 86772 of 2024

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

Noor Jahan Khatoon @ Noorjahan, Wife of Sadrul @ Sadrul Ansari @ Md.  
Sadrul, Resident of Village- Indira Nagar, Tikuliya Basti, Ward No.3, P.S.-  
Jogbani, District- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :  
(In CRIMINAL MISCELLANEOUS No. 70886 of 2024)  
For the Petitioner/s : Mr. N A Shamsi, Advocate  
For the Opposite Party/s : Mr. Syed Mojibur Rahman, Advocate

(In CRIMINAL MISCELLANEOUS No. 86772 of 2024)  
For the Petitioner/s : Mr. Munish Om Prakash Singh, Advocate  
For the Opposite Party/s : Mr. Mukesh Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR  
ORAL ORDER

4      18-12-2024                      Since both the matters are arising out of the same P.S.

Case and, as such, with the consent of both the parties are being  
heard together and disposed off by this common order.

2. Heard learned Advocate appearing on behalf of the  
petitioners and the learned Additional Public Prosecutor for the



State.

3. The application for grant of bail to the petitioners who are in custody in connection with Jogbani P.S. Case No. 102 of 2024 registered for the offence punishable under Sections 21 and 22 of the N.D.P.S. Act.

4. The police on a tip off selling intoxicating medicines conducted raid in the house of the petitioners in Criminal Miscellaneous No. 70886 of 2024, however, noticing the police party, a male and a female succeeded in fleeing away after throwing a bag. However, one Noorjaan @ Noor Jahan @ Noor Jahan Khatoon, who was also trying to flee away after throwing a bag, was apprehended by the police. On search, various medicines and injections which are used for the purposes for intoxication were recovered. It is specifically alleged that the bag which was being carried by co-accused Noorjaan @ Noor Jahan @ Noor Jahan Khatoon and others, (i) Promethazine Hydrochloride Injection-785pieces, (ii) Lupigesic Injection-300 pieces and (iii) Pheniramine Maleate Injection-320 pieces were recovered.

5. Learned Advocate appearing on behalf of the petitioners drawing the attention of this Court to the FIR contended that *prima facie* the recovery was made from the bag



which was thrown by Noorjaan @ Noor Jahan @ Noor Jahan Khatoon which fact has also been corroborated from the seizure list where her seizure list has been obtained. In fact, the name of the petitioners have been implicated in this case only on account of their past criminal antecedent of identical nature. The alleged recovery has not been made from the conscious or constructive possession of the petitioner. The recovery of the intoxicating substance has been made from an open place, easily accessible to all. Moreover, the identification of the petitioners is also doubtful as the police has only said that two persons were fleeing from the house of petitioner, Md. Sadrul @ Md. Sadrul Ansari. Save and except the suspicion there is no material, suggesting the complicity of the petitioner in the crime. It is next contended that co-accused Noorjaan @ Noor Jahan, who was apprehended by the police alongwith the intoxicating substance, has been allowed the privilege of regular bail by this Court in Criminal Miscellaneous No. 53666 of 2024, vide order dated 25.09.2024. While addressing the Court on the point of criminal antecedent of the petitioner, the two orders passed by the learned co-ordinate Bench of this Court have been placed before this Court and submission has been made that the bail has been granted to the petitioner, Md. Sadrul @ Sadrul Ansari,



by taking note of the fact that nothing has been recovered from the possession of the petitioners. In fact, the implication of the petitioners in the present case is only on account of the criminal antecedent and nothing more. It is also the contention of the petitioners that there is no compliance of the mandatory provisions of the N.D.P.S. Act and surprisingly the chargesheet has been submitted without the FSL report. The petitioners undertake before this Court that they will fully cooperate in the proceeding of the Court, till its conclusion.

6. On the other hand, learned Additional Public Prosecutor for the State vehemently opposes the bail application and submits that the criminal antecedent of the petitioner in identical nature of crime clearly suggest their involvement in the trafficking of intoxicating substance, moreover, the allegation clearly suggest that the petitioners were identified while fleeing from the place of occurrence after throwing the bag from which recovery has been made.

7. Regard being had to the submissions made on behalf of the parties and considering the suspicious identification of the petitioners and the recovery of the incriminating and intoxicating substance from the public place, coupled with the submission of the learned Advocate for the



petitioner that on earlier two occasions also the recovery has not been made from the conscious possession of the petitioner, apart from other infirmities in the search and seizure and the submission of the chargesheet without FSL report, let the petitioners, 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 Judge-cum-Special Judge, (NDPS Act), Araria in connection with Jogbani P.S. Case No. 102 of 2024, subject to the condition that one of the bailors will be the close relatives of the petitioners with further conditions which are as follows:-

(i) The petitioners will cooperate in conclusion of the trial.

(ii) They will remain present on each and every date of trial till disposal of the case.

(iii) They 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, their bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedents of the petitioners and in case, at any stage, it is



found that the petitioners have concealed their criminal antecedent, the Court below shall take immediate step for cancelling the bail bond of the petitioners. 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)

supratim/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

