

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73138 of 2024

Arising Out of PS. Case No.-314 Year-2023 Thana- KAJI MUHAMMADPUR District-
Muzaffarpur

=====

Rahul Singh Son of Mr. Dilip Singh R/O Vill.- Karnaul Chandi, P.S.-
Gadahani, Dist.- Bhojpur.

... .. Petitioner/s

Versus

The State Of Bihar

.. ... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mrs. Vaishnavi Singh, Adv.

For the Opposite Party/s : Mr. Tapeswar Sharma, A.P.P.

=====

CORAM: HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL ORDER

2 17-10-2024 Heard learned counsel for the petitioner
and learned APP for the State.

2. The petitioner has filed the instant application for grant of regular bail in a case registered for the offences punishable under Sections 392, 414, 468 and 489 of the Indian Penal Code and Section 8(c), 21(b) of the NDPS Act.

3. As per allegation in the F.I.R., after getting the information about two miscreants who have snatched the ear-rings of a woman and trying to flee away, the informant being a police official reached at the spot and arrested



two persons including the petitioner. On search, 21.5 grams of Smack was recovered from the conscious possession of the petitioner while 24 grams of Smack was recovered from the conscious possession of co-accused Nitesh Kumar Tibrebal.

4. It is submitted by learned counsel for the petitioner that petitioner is innocent and he has been falsely implicated in this case. The petitioner was not apprehended from the spot nor any incriminating article has been recovered from the conscious possession of the petitioner. The petitioner has got no concern with the co-accused Nitesh Kumar Tibrebal. Moreover, the seized Smack comes within the purview of small quantity. It is further submitted that charge has been framed in this case. The petitioner is languishing in judicial custody since 29.07.2023. A statement has been made in para 3 of the petition that petitioner is accused in two other cases apart



from the present one.

5. Learned A.P.P appearing on behalf of the State has vehemently opposed the prayer of the petitioner and submitted that petitioner was apprehended from the spot along with his associate and from his possession 21.5 grams of Smack was seized. Moreover, earlier also, the petitioner has been made accused in other similar cases.

6. Considering the submissions made on behalf of both the sides, now this Court proceeds to examine the gravity and severity of the accusation as alleged against the petitioner. In the present case, two accused persons including the petitioner were arrested by the police and from the possession of the petitioner 43 sachets of smack total weighing 21.5 grams were seized.

7. In terms of the [NDPS Act and Schedule to the Act](#), any narcotic drug or psychotropic substances is categorized into



small and commercial quantity. By interpretative process, any quantity which exceeds the specification(s) for "Smaller Quantity" but remains below the limit for "Commercial Quantity" has been categorized as "Intermediate Quantity". As per the Act and Schedule thereto, in case of Heroin/Smack, the quantity up-to 5 grams falls within 'Small Quantity' and quantity exceeding 5 grams to below 249 grams comes within the ambit of "Intermediate Quantity".

8. In the instant case, the petitioner was involved in transmission/sell/purchase of more than 45.05 grams of Smack which was recovered from the petitioner and his associate, which is nine times more than the maximum prescribed limit for smaller quantity, for which the punishment stretches over to rigorous imprisonment for a period up-to 10 years or with fine. Notably, the gravity of this street drug [heroin/smack weighing 45.05 grams], is



much more than the offences relating to murder, culpable homicide, rape, grievous hurt etc., for the reason, that in the case of rape or murder or culpable homicide or grievous hurt etc., it can have adversarial and killing instinct on countable persons; but the harmful, injurious and dangerousity of heroin/smack is more graver and its culpability is writ large. In view of the gravity of the alleged offence, as explained in the case of [Hira Singh versus Union of India](#), (2020) 20 SCC 272 coupled with the fact that it is the *modus operandi* of these persons, that they resort to peddling in small or intermediate quantity of contraband, hoping that the Court(s) liberally construe the alleged involvement in small or intermediate quantity for purpose of bail. Merely because the quantity allegedly involved is "Intermediate Quantity {21.5 grams}", the same shall *ipso facto* cannot confer a right or leverage or license for claiming or granting bail and the rule of law



cannot be permitted to be scuttled, as in this case. Such nefarious-illegal drug trafficking and drug peddling and trading needs to be strictly dealt with and curbed, so that in coming times an uncontrollable adversial situation may not arise; when, one may have to repent later.

Accordingly, keeping in mind the gravity and severity of the alleged offence and the adversial societal interests, at large, this Court refrains from extending the concession of bail, in the instant case to the petitioner at this stage. Enlargement on bail, is likelihood to give rise to similar offence(s) being repeated by the bail petitioner, which shall certainly cause further damage and exploitation to the society at large.

9. The Trial Court is directed to expedite the trial and conclude the same at the earliest.

(S. B. Pd. Singh, J)

Shageer/NKS

U		T	
---	--	---	--

