

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75506 of 2023

Arising Out of PS. Case No.-367 Year-2023 Thana- MURLIGANJ District- Madhepura

Bittu Kumar Son of Suresh Thakur @ Suresh Kumar R/O Vill - Kewatgama,
Ward No. 15, P.S. - Kumarkhand, Distt. - Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 81076 of 2023

Arising Out of PS. Case No.-367 Year-2023 Thana- MURLIGANJ District- Madhepura

Mukesh Kumar Son of Mithilesh Prasad Yadav @ Mithilesh Kumar R/O Vill -
Matnja Ward No. 1, P.S. - Madhepura (Bharrahi O.P), Distt. - Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 75506 of 2023)
For the Petitioner/s : Mr.Wasi Ahmad Khan, Adv.
For the Opposite Party/s : Ms.Asha Kumari, APP
(In CRIMINAL MISCELLANEOUS No. 81076 of 2023)
For the Petitioner/s : Mr.Dinesh Prasad Verma, Adv.
For the Opposite Party/s : Mr.Madhura Nand Jha, APP

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

ORAL ORDER

4 15-03-2024 Heard learned counsel for the petitioners and learned
APP for the State in both the cases as also perused the case
diary.

2. The petitioners seeks bail in connection with
Murliganj P.S. Case No. 367 of 2023 instituted for the offences
under Section 20, 21, 22 of the N.D.P.S. Act and Section 30 of



the Bihar Prohibition and Excise Act, 2018.

3. As per prosecution case, the police has recovered total 203 gram smack kept in two plastic packets from under the dashboard of the Alto Maruti Car bearing Regd. No. 43-AA-1855.

4. Learned counsel for the petitioners submit that the petitioners are innocent and have committed no offence as alleged against them and have falsely been implicated in the present case. He further submits that nothing incriminating has been recovered from the conscious possession of the petitioners. The petitioners have no concern with the seized contraband. The petitioner/Mukesh Kumar is the owner of the alleged Maruti car but, had no knowledge about the smack which was kept in two plastic packs. The petitioner/Bittu Kumar is not the owner of the alleged Maruti car and was just a rider and was given lift by the petitioner/Mukesh Kumar. Learned counsel for the petitioners further submit that the seized smack is in lessor quantity and 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 Section 42 and 50 of the N.D.P.S. Act. The petitioners have no criminal antecedent as has been stated in paragraph no.3 of the present



bail applications. There is a non-compliance of Section 100 of the Cr.P.C. which creates a serious doubt in the prosecution case. The petitioners are languishing in judicial custody since 04.09.2023.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner.

6. Having heard rival contention of both the parties and considering the entire facts and circumstances of the case as also taking into account the period of custody of the petitioners and the petitioners having no criminal antecedent, let the petitioners, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Murliganj P.S. Case No. 367 of 2023.

(Rudra Prakash Mishra, J)

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