

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79273 of 2024

Arising Out of PS. Case No.-33 Year-2024 Thana- Basmatia District- Araria

Sulekha Devi wife of Raj Kumar Resident of village- Bela ward no 08 Police station- basmatiya District- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Rana, Adv.

For the Opposite Party/s : Mr. Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

2 12-11-2024 Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner seeks bail in connection with Basmatiya P.S. Case No. 33 of 2024 instituted for the offences under Sections 8(c), 21(c), 22, 23 of the N.D.P.S. Act.

3. As per prosecution case, the police has recovered 516 gram brown sugar from the Auto bearing Regd. No. *BR 38P 5751* which is being driven by the co-accused Rupesh Kumar. The petitioner is said to be travelling in the alleged Auto.

4. Learned counsel for the petitioner submits that the petitioner, who is a lady, is innocent and has committed no offence as alleged against her and has falsely been implicated in the present case. He further submits that nothing incriminating



has been recovered from the conscious possession of the petitioner. The petitioner has no concern with the seized Auto or the alleged contraband. The petitioner had no knowledge about the seized brown sugar being kept in the alleged Auto and has been made accused in this case only on suspicion and except suspicion, there is nothing on record to show her complicity in the alleged occurrence. No procedure has been followed under Section 50 of the N.D.P.S. Act. The mandatory provision of Sections 42 & 43 of the N.D.P.S. has also not been complied with. There is a non-compliance of Section 100 of the Cr.P.C. which creates a serious doubt in the prosecution case. The petitioner has no criminal antecedent and is languishing in judicial custody since 30.08.2024 without any rhymes or reason.

5. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner, stating that the quantity of the recovered brown sugar is more than commercial quantity and, thus, there is bar under Section 37 of the N.D.P.S.

6. Considering the entire facts and circumstances of the case and recovery of contraband which is beyond the commercial quantity coupled with the embargo under Section 37 of the N.D.P.S. Act, this Court is not inclined to grant bail to



the petitioner.

7. Accordingly, the prayer for bail of the petitioner, above named, is rejected with a direction to the court below to expedite the trial.

(Rudra Prakash Mishra, J)

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