

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80433 of 2024

Arising Out of PS. Case No.-54 Year-2024 Thana- PUWAKHALI District- Kishanganj

Imtiyaz alam Son of Tosif alam @ Tausif Alam Resident of Village-
Bhatgaon, P.S.- Powakhali Distt.- Kishanganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Md Ziaul Quamar, Adv.

For the Opposite Party/s : Mr.Ram Sevak Choudhary, APP

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

ORAL ORDER

2 19-11-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in connection with
Powakhali P.S. Case No. 54 of 2024 instituted for the offences
under Sections 89(c), 21(b), 29 of the N.D.P.S. Act.

3. As per prosecution case, the police has recovered
48.62 grams of contraband substance kept in a plastic bag
recovered from the possession of the petitioner. It is alleged that
the contraband substance (Morphin) was confirmed in test by
D.D. Kit.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has committed no offence as alleged
against him and has falsely been implicated in the present case



due to suspicion. He further submits that nothing incriminating has been recovered from the conscious possession of the petitioner rather the same has been found from the possession of co-accused Naushad Alam and the alleged motorcycle also does not belong to the petitioner. The petitioner has no concern with the seized contraband. The recovered contraband is much less than the commercial quantity. 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. There is also 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 18.09.2024 without any rhyme 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 48.62 grams of contraband substance has been recovered from the possession of the accused persons including the petitioner. The offence alleged is serious in nature and, hence, he does not deserve bail.

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 petitioner



and the petitioner having no criminal antecedent, let the petitioner, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Powakhali P.S. Case No. 54 of 2024.

(Rudra Prakash Mishra, J)

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