

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81061 of 2023

Arising Out of PS. Case No.-279 Year-2023 Thana- CHHAURADANO District- East
Champaran

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Rajesh Prasad Yadav Son of Daya Ram Prasad Yadav R/O Vill - Agarwa, P.S.
- Jitna, Distt. - East Champaran, Motihari

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sharda Nand Mishra, Adv.

For the Opposite Party/s : Mr.Brajendra Nath Pandey, APP

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

ORAL ORDER

5 09-04-2024 Heard learned counsel for the petitioner and

learned APP for the State. Perused the case diary.

2. The petitioner seeks bail in connection with
Chhauradano P.S. Case No. 279 of 2023 instituted for the
offences under Sections 8, 21(c) and 25 of the N.D.P.S. Act.

3. The per prosecution case, the petitioner has
been apprehended on the spot with 01 Kilogram Morphine in
a blue colour sack hanged with the one Pulsar Motorcycle
bearing Regd. No. BR-06-AQ-1292.

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 local party politics. Nothing incriminating has been recovered from the conscious possession of the petitioner. The petitioner is not the owner of the alleged motorcycle and has also no concern with the seized contraband. During course of investigation, not a single evidence direct or indirect has come against the petitioner. There is no specific and direct allegation against the petitioner rather the same is omnibus and general in nature. The petitioner has no criminal antecedent as has been stated in paragraph no.3 of the present bail application. The petitioner is languishing in judicial custody since 19.08.2023 and the charge-sheet after investigation has been submitted in this case. There is no compliance of sections 42 and 50 of the NDPS Act.

5. On the other hand, the learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner, stating that the petitioner is named accused in the F.I.R. and the police has recovered 01 Kilogram Morphine from the possession of the petitioner. The F.S.L. report also confirms the seized article to be Morphine.



Several witnesses have also corroborated the version of the F.I.R. The allegation made against the petitioner is serious in nature and, thus, the petitioner does not deserve bail. He further submits that the recovered contraband is above the commercial quantity and, hence, there is a bar under Section 37 of the N.D.P.S. Act.

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 offence being serious in nature and seized contraband is above the commercial quantity, this Court is not inclined to grant bail to the petitioner.

7. Accordingly, the prayer for bail of the petitioner is hereby rejected with a direction to the court below to conclude the trial expeditiously preferably within a period of nine months from the date of receipt/production of a copy of this order.

8. If the trial is not concluded within the aforesaid period of nine months, the petitioner will be at liberty renew his prayer for bail before the court below which will be



decided on its merit without being prejudiced by this order.

9. The District Magistrate, East Champaran, Motihari and the Superintendent of Police, East Champaran, Motihari are also directed to ensure the timely presence of the charge-sheet witnesses as and when required by the trial court.

10. Let a copy of this order be sent to the District Magistrate, East Champaran, Motihari and the Superintendent of Police, East Champaran, Motihari for strict compliance of this order.

(Rudra Prakash Mishra, J)

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