

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85235 of 2023

Arising Out of PS. Case No.-325 Year-2022 Thana- ARA MUFFSIL District- Bhojpur

Birbal Kumar @ Birbail Kumar Son of Rameshwar Rai @ Rameshwar Yadav,
Resident of Village - Daulatpur, P.S.- Ara Muffasil, District- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Malti Kumari, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 16-02-2024 Heard Ms. Malti Kumari, the learned counsel for the

petitioner and Mr. Sanjay Kumar Tiwary, the learned Additional

Public Prosecutor for the State.

2. Petitioner seeks regular bail who is in custody since

02.10.2022, in connection with G.R. No. 100 of 2022, arising

out of Ara Muffasil P.S. Case No. 325 of 2022, FIR dated

02.10.2022, registered for the offence punishable under Section

20 of NDPS Act.

3. Earlier the petitioner has moved to this Hon'ble

Court for grant of regular bail vide Cr. Misc. No. 70253 of 2022,

which was rejected vide order dated 10.05.2023.

4. According to the prosecution case, the informant

upon receiving secret information conducted raid and arrested

the petitioner. It is further alleged that 34.1 grams of narcotic



material along with Rs. 635/- (Six hundred and thirty-five rupees) and a mobile phone were recovered from the possession of the petitioner.

5. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case.

6. It appears from the FIR that 34.1 grams of Heroin like contraband was recovered from the tempo in question and the petitioner is driver of the said tempo. Vide order dated 05.01.2024, a report was called for with regard to the stage of trial and report dated 18.01.2024 of learned trial Court reveals that there is no progress from the side of prosecution and till date no witnesses have been examined as yet by the prosecution.

7. Learned counsel for the petitioner referring to the aforesaid report submits that in view of the report of the learned trial Court, there is no chance of early conclusion of the trial in near future and the petitioner is in custody since 02.10.2022.

8. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner on the ground that petitioner carries one criminal antecedent other than the present one, but fairly admits that he has been granted bail in the said case.

9. Considering the aforesaid facts and circumstances



and the report of the learned trial Court and the fact that the recovered contraband is a little more than the small quantity and also the custody period of the petitioner, let the petitioner, above-named, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees ten Thousand only) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge, Bhojpur at Ara, in connection with **Ara Muffasil P.S. Case No. 325 of 2022**, subject to the following conditions:

(i). Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(ii). If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(iii). And further condition that the Court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the Court below shall take step for



cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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