

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84848 of 2024

Arising Out of PS. Case No.-262 Year-2024 Thana- POTHIIYA District- Kishanganj

Basir @ Basir Ansari Son of Late Md. Abbas Resident of Ward No. 08,
Kaliyaganj, P.O. - Taiyabpur, P.S. - Pothia, District - Kishanganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mritunjay Kumar, Advocate
For the Opposite Party/s : Mr. Ram Anurag Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

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

02. In the present case, the petitioner seeks bail in connection with Pothia P.S. Case No. 262 of 2024, registered on 10.09.2024, for the alleged offences under Sections 8(c)/21(b) of the Narcotics Drugs & Psychotropic Substances Act, 1985.

03. As per prosecution case, the petitioner was apprehended with 5.28 grams of brown sugar.

04. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. Nothing incriminating has been recovered from the person or possession of the petitioner. The mandatory provisions of Section 50 of N.D.P.S. Act were not followed. The petitioner was not allowed to exercise his option to be searched in



presence of a Gazetted Officer or a Magistrate. The failure to comply with the procedural safeguards make the search and seizure unlawful. The petitioner is in custody since 11.09.2024 and charge-sheet has been submitted. The petitioner is having antecedent of one case, i.e., Pothia P.S. Case No. 34 of 2023, which was disposed of in National Lok Adalat vide order dated 09.09.2023.

05. Learned APP for the State opposes the prayer for bail. Learned APP submits that from the petitioner recovery of 5.28 gram of brown sugar was made.

06. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that brown sugar allegedly recovered from the petitioner is just above the small quantity, i.e., 5.28 gram and further considering the period of custody of the petitioner along with submission of charge-sheet, the petitioner above named is directed to 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 learned Sessions Judge-cum-Special Judge (NDPS Act), Kishanganj in connection with Pothia P.S. Case No. 262 of 2024, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:



- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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