

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2993 of 2025

Arising Out of PS. Case No.-98 Year-2024 Thana- Bathnaha District- Araria

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Pawan Kumar @ Bablu Pandey, S/o Late Jagdish Pandey, R/o Mohalla-
Mirchaibari, Shitala Sthan, P.S.- Sahayak, Dist.- Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gaurav Prakash, Advocate

For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 05-02-2025 Heard Mr. Gaurav Prakash, learned Advocate

appearing on behalf of the petitioner and Mr. Ram Priya Sharan Singh, learned Additional Public Prosecutor for the State.

2. The application for grant of bail to the petitioner who is in custody in connection with Bathnaha P.S. Case No. 98 of 2024 registered for the offence punishable under Sections 8(c) and 21(b) of the Narcotic Drugs & Psychotropic Substance Act, 1985 (in short N.D.P.S. Act).

3. The police on tip off smuggling of Heroin (Brown Sugar) raided the place of occurrence and apprehended the petitioner and one another accused person. In course of search 100gm Heroin (Brown Sugar) like substance has been recovered from possession of the petitioner.

4. Learned Advocate appearing on behalf of the



petitioner contended that the alleged recovery has been made from the scrap shop of co-accused Dasrath Poddar and the petitioner has no concern with the scrap shop and there is complete denial of any recovery from the possession of the petitioner. It is further contended that the narrations made in the F.I.R., clearly suggest that there is no compliance of Section 42 and 50 of the N.D.P.S. Act, inasmuch as, neither before committing raid the information has been reduced to writing, nor the search and seizure has been made in presence of the Magistrate. The written report which suggest that the search and seizure has been made in presence of the gazetted officer also does not corroborate with the seizure list, wherein there is no signature of the gazetted officer. Further contention has been made that even if the allegation taken to be true, for the sake of argument, the weight of the alleged Brown Sugar is much below the commercial quantity and, as such, the rigors provided under Section 37 of the N.D.P.S. Act would not be applicable. The petitioner bears fair antecedent and he undertakes before this Court that he will fully cooperate in the proceeding of the Court.

5. On the other hand, learned Additional Public Prosecutor for the State vehemently opposes the bail application and submits that the recovery has been made from the conscious



possession of the petitioner; moreover the submissions advanced by the petitioner are required to be looked into at the time of trial.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the alleged recovered Heroin (Brown Sugar) like substance is below the commercial quantity, coupled with the fact that the chargesheet has been submitted, but without there being any FSL report and the petitioner has been incarcerated since 03.09.2024 having fair antecedent, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Court of Session Judge cum Special Judge, N.D.P.S. Act, Araria in connection with Bathnaha P.S. Case No. 98 of 2024, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or



intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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