

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16856 of 2025

Arising Out of PS. Case No.-14 Year-2020 Thana- N.C.B (GOVERNMENT OFFICIAL)
District- Gaya

Shyam Bihari S/O Ram Dayal R/O Village- Dhakia, P.S- Aliganj, Dist.-
Bareilly, Uttar Pradesh.

... .. Petitioner/s

Versus

The Union of India through the Intelligence Officer, Narcotic Control Bureau,
Zonal Unit, Patna. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manaur Alam, Advocate
For the Opposite Party/s : Mr. Ram Anurag Singh, CGC

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

ORAL ORDER

3 30-06-2025 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of NCB.

2. The petitioner seeks bail in NDPS Case No. 43 of
2020 arising out of NCB Case No. 14 of 2020 instituted for the
offences under Sections 8(c), 18, 25, 29, 59 of the NDPS Act.

3. As per prosecution, NCB officer received a secret
tip about opium being smuggled in two vehicles from Chatra to
Gaya. Thereafter, a team was formed and on the night of
31.10.2020 to intercept the vehicles and on 01.11.2020, both the
cars were stopped, four accused persons including the petitioner



were apprehended and search was made in the presence of witnesses, leading to recovery of 16 packets of liquid opium weighing 15kg.

4. Learned counsel for the petitioner submitted that the petitioner is innocent and has falsely been implicated in the present case. The petitioner is in custody since 03.11.2020 and has got one criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. No incriminating article has been recovered from the conscious possession of the petitioner. Learned counsel further submitted that there is no compliance of Section 50 of the NDPS and Section 100 of the Cr.P.C. Learned counsel further submitted that the only material against the petitioner is in the form of confessional statement which is not admissible in evidence in view of the law laid down in *Toofan Singh vs. The State of Tamil Nadu reported in 2021 (4) SCC 1*. Learned counsel further submitted that vide Annexures P/2, P/3 and P/5 to this bail application, two co-accused persons have been granted bail by Hon'ble the Supreme Court whereas vide Annexures P/4, P/6 and P/7, three co-accused persons have been granted bail by coordinate Benches of this Court.

5. Learned counsel for the NCB has vehemently



opposed the prayer for grant of bail to the petitioner. Learned counsel further submitted that recovered contraband is above the commercial quantity, hence, there is bar under Section 37 of the N.D.P.S. Act.

6. Considering the aforesaid facts and circumstances of the case, claim based on parity as also the period of custody undergone by the petitioner, this Court is inclined to grant bail to the petitioner.

7. Let the petitioner 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 NDPS Case No. 43 of 2020 arising out of NCB Case No. 14 of 2020, subject to the following conditions:

(I) One of the bailors shall be own/close member of the family of the petitioner.

(II) The petitioner shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the petitioner.

(III) 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.

(Rudra Prakash Mishra, J)

Alok Verma/-

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