

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31626 of 2025

Arising Out of PS. Case No.-370 Year-2024 Thana- PALASI District- Araria

Sadre Alam @ Sadre @ Sarwar Alam, son of Md. Mojib @ Mojeev @ Md. Mojeeb, Resident of Village -Dumariya Tola, ward No 05, PS -Palasi, Dist- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kanchan Jha, Advocate

For the Opposite Party/s : Mr. Anish Chandra, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 22-05-2025 Heard learned Advocate appearing on behalf of the petitioner and the learned Additional Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection with Palasi P.S. Case No. 370 of 2024, registered for the offences punishable under Sections 21(b) and 21(c) of the N.D.P.S. Act.

3. In course of patrolling, the police on a secret information intercepted a motorcycle, however noticing the police party, out of three persons two succeeded in fleeing away and one persons namely Md. Mojib was apprehended. The apprehended person disclosed the name of the petitioner as his accomplice. In course of search, total 26.300 litres of scuff



cough syrup was recovered.

4. Learned Advocate appearing on behalf of the petitioner taking this Court through the FIR contended that the petitioner is none else, but the son of Md. Mojib and in fact, only on account of two criminal antecedents, the informant has implicated the name of the petitioner. The petitioner on the alleged date of occurrence was neither present in the village, nor he has anyhow related to the crime. There is no compliance of statutory procedure prescribed under Section 50 of the N.D.P.S. Act. It has not been disclosed that whether the statement of the apprehended person was recorded in presence of the Magistrate or any gazetted officer. Moreover, even if the prosecution case is accepted, the statement recorded before the police is not admissible in view of the mandate of the Apex Court in the case of *Toofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1*. It is lastly contended that the petitioner undertakes before this Court that he will fully cooperate in the proceeding of the Court.

5. On the other hand, learned Advocate for the State opposed the pre-arrest bail application and submits that apart from the fact the name of the petitioner was disclosed by the apprehended person, the petitioner also bears two criminal



antecedent.

6. Regard being had to the submissions made on behalf of the parties and considering the materials available on record as also the fact that save and except the disclosure made by the father of the petitioner, there is no material suggesting the complicity of the petitioner in crime, apart from the other infirmities in the search and seizure, let the petitioner above named be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of the learned District & Sessions Judge-cum-Spl. Judge, NDPS, Araria in connection with Palasi P.S. Case No. 370 of 2024, subject to the conditions laid down in Section 482(2) of the Bharatiya Nagrik Suraksha Sanhita, 2023 with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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