

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76753 of 2024

Arising Out of PS. Case No.-183 Year-2024 Thana- GANGABRIDGE District- Vaishali

Aklesh Kumar @ Akalesh Kumar Singh S/o- Birchandar Rai @ Birchandra Rai Resident of Village- Sahdullahpur Ward No. 10, P.S.- Ganga Bridge, Dist- Vaishali .

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Jha, Advocate

For the Opposite Party/s : Mr.Chandra Bhushan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

3 07-01-2025 Heard learned counsel for the petitioner and learned APP for the State. The present case has been heard along with Cr. Misc. No. 77955 of 2024.

2. The petitioner seeks bail in Gangabridge P.S. case No. 183 of 2024 instituted for the offences under Sections 8(c), 21(b) and 29 of the N.D.P.S. Act.

3. Prosecution allegation, in short, is that the 23 dibiya of drugs were recovered from the accused persons including the petitioner.

4. Since the nature of seized contraband was not mentioned in the F.I.R, a Coordinate Bench of this Court by order dated 28.10.2024, passed in Cr. Misc. No. 77955 of 2024, directed personal presence of O.P. No. 2 and to explain the



F.I.R. In compliance of the said order, O.P. No. 2 is personally present with a copy of case diary and has also filed a counter affidavit in Cr. Misc. No. 77955 of 2024.

5. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. The petitioner is in custody since 08.09.2024 and has got one criminal antecedent in which he is on bail. Charge sheet has been submitted in this case. Learned counsel for the petitioner referring to paragraph 9 of the said counter affidavit filed in Cr. Misc. No. 77955 of 2024, submits that 9.760 gm drugs was seized out of which 3.3 gm each have been sent for F.S.L., Kolkata and F.S.L., Muzaffarpur and rest 3.31 gm has been kept in Malkhana. Further, referring to paragraph 22 of the case diary, learned counsel for the petitioner submits that seized contraband is smack like substance and for which a corrigendum was also filed before the Court below. The said corrigendum letter is annexed as Annexure-P/2 to the present application. No incriminating material has been recovered from the conscious possession of the petitioner. The recovered contraband is below the commercial quantity. Hence, Section 37 of the N.D.P.S. Act is not applicable in the present case. There is no compliance of Sections 42 and 50 of the N.D.P.S.



Act.

6. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. Learned APP further submits that since the name of the seized contraband was not mentioned in the F.I.R., a corrigendum letter was filed before the Court below mentioning the seized contraband as Smack like substance. Learned APP, referring to paragraph 13 of the counter affidavit, further submits that O.P. No. 2 tenders unconditional and unqualified apology for inconvenience caused to this Court and further undertakes to remain vigilant while conducting the cases of such nature in future.

6. Considering the aforesaid facts and circumstances of the case, the period of custody undergone by the petitioner and the recovered contraband below commercial quantity, 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 Gangabridge P.S. case No. 183 of 2024 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) The petitioner will not hamper the trial or temper with any prosecution evidence. If he is found involved in such incidence, the prosecution shall have liberty to take steps for cancellation of bail granted to the petitioner.

(Rudra Prakash Mishra, J)

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