

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83458 of 2024

Arising Out of PS. Case No.-245 Year-2024 Thana- BAHADURPUR District- Patna

Akash kumar S/O Late Durga Prasad R/O Vill-Karan Samrat Tole, P.S -
Alamganj, District- Patna (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subodh Kumar, Advocate
: Mr. Amrendra Kumar, Advocate
: Mr. Nitesh Kumar, Advocate
For the Opposite Party/s : Mr. Sangeeta Sharma, APP

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

ORAL ORDER

4 03-03-2025 Heard learned counsel for the petitioner and learned
APP for the State. Perused the case diary.

2. The petitioner seeks bail in connection with
Bahadurpur P.S. Case No. 245 of 2024 instituted for the
offences under Sections 30(a) of the Bihar Prohibition and
Excise Act and Sections 18-A, 27 of the Drugs and Cosmetic
Act, 1940.

3. Prosecution case, in short, is that total 20 litre of
country-made liquor has been recovered from white plastic bag.
It is further alleged that 33 pieces of Buprenorphine Injection
has also been recovered in this case.

4. Learned counsel for the petitioner submitted that the



petitioner has falsely been implicated in the present case. Charge-sheet has been submitted in this case. Petitioner is in custody since 11.06.2024 and has no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. No incriminating material has been recovered from the conscious possession of the petitioner.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. Pursuant to order dated 29.01.2025, Mr. Choubey Jawahar learned In-charge APP has filed counter-affidavit in the matter. Learned APP referring to paragraph no. 9 of the said counter-affidavit submitted that total 19.8 mg BUPRENORPHINE has been recovered from the petitioner which is less than the limit of small quantity as specified in the NDPS Act. As per paragraph no. 11 of the counter-affidavit, police after investigation submitted charge-sheet under Sections 30(a) of the Bihar Prohibition and Excise Act and Sections 18A, 27 of the Drugs and Cosmetic Act and further, a petition dated 18.02.2025 was filed by the Investigating Officer stating therein the addition of Sections 21/22 of the NDPS Act, after omitting Section 18A/27 of the Drugs and Cosmetic Act.

6. Pursuant to the submissions made on behalf of the



State, learned counsel for the petitioner submitted that the recovered contraband is below the small quantity, and 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. Considering the aforesaid facts and circumstances of the case, recovery of narcotic substance being less than small quantity 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 Bahadurpur P.S. Case No. 245 of 2024.

(Rudra Prakash Mishra, J)

Alok Verma/-

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