

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85992 of 2024

Arising Out of PS. Case No.-195 Year-2022 Thana- BRAHMPURA District- Muzaffarpur

Md. Jamir S/O Late Md. Salim R/O Imlichatti, Near Custom Office, P.S-
Brahampura, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar @ S.K., Advocate
For the State : Mr. Narendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 17-01-2025 Heard Mr. Sanjay Kumar @ S.K., learned counsel

for the petitioner and Mr. narendra Kumar Singh, learned APP

for the State.

2. Petitioner seeks bail who is in custody since
02.10.2022 in connection with N.D.P.S. Case No. 237 of 2022
arising out of Brahampura P.S. Case No. 195 of 2022 for the
offences punishable under Sections 8(C)/20/21 (c) of the
N.D.P.S. Act, 1985.

3. The case relates to recovery of 350.15 grams of
Smack (Heroin) from the possession of the petitioner.

4. Earlier the bail petition of the petitioner was
rejected vide order dated 16.10.2023 passed in Cr. Misc. No.
14054 of 2023 by a Coordinate Bench of this Court.



5. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that as per allegation in the F.I.R., altogether 350.15 grams of Smack has been recovered from the possession of the petitioner. He further submits that although recovery has been made from the possession of the petitioner but there is non compliance of mandatory provisions of N.D.P.S. Act and apart from that Vikky Sahni and Subodh Kumar have been granted bail by this Court vide order dated 18.07.2023 passed in Cr. Misc. No. 13107 of 2023 and Cr. Misc. No. 17691 of 2023.

6. Learned Additional Public Prosecutor, on the other hand, vehemently opposed the prayer for bail of the petitioner and submits that it appears from the F.I.R. as well as seizure list that the recovered contraband from the possession of the petitioner is more than the commercial quantity, so there is embargo under Section 37 of the N.D.P.S. Act and apart from that it appears that the recovery has been made from the possession of co-accused person is 51 grams does not come under the provision of Section 37 of the N.D.P.S. Act.

7. The grant of bail in NDPS cases where the recovery of commercial quantity of narcotic is alleged is



circumscribed under Narcotic Drugs and Psychotropic Substance Act, 1985, Section 37 which says that before grant of bail, the Court must have reason to believe that petitioner has not committed the offence and in the event of release he would not commit similar offence.

8. The issue was considered by the Hon'ble Supreme Court in the case of State of **Kerala and Ors. Vs. Rajesh and Ors. reported in (2020) 12 SCC, 122** as well as in the case of **Narcotic Control Bureau Vs. Mohit Aggarwal reported in AIR 2022 SC 3444 and Union of India vs. Ajay Kumar Singh @ Pappu reported in 2023 SCC OnLine SC 3456 dated 28.03.2023.**

9. The recovery of huge quantity of Smacks (Heroin) recovered would not justify that the petitioner had no knowledge of the narcotic nor there is any material to substantiate that the petitioner would not commit such offence in the event of release.

10. Hence, I am not inclined to enlarge the petitioner on bail in connection with N.D.P.S. Case No. 237 of 2022 arising out of Brahampura P.S. Case No. 195 of 2022 pending in the Court of learned Special Judge, Exclusive Special Court N.D.P.S.-I, Muzaffarpur.



11. Prayer is refused.

12. However, the learned Trial Court is directed to expedite the trial and conclude the same at the earliest.

(Rajesh Kumar Verma, J)

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