IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62518 of 2026

CNR No. BRHC010844792026

Arising Out of PS. Case No.-1569 Year-2025 Thana- AHIYAPUR District- Muzaffarpur

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Rajeshwar Pandit S/o Late Baldeo Pandit R/o Village- Gharharwa, P.S- Chiraiya, Dist- East Champaran, Bihar.

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Ravi Prakash Dwivedi, Adv
Mr. Sandeep Gupta, Adv
For the Opposite Party/s : Mr. Bishweshwar Ram, APP

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR

ORAL ORDER

4 30-10-2026 Heard the learned counsel for the petitioner and the learned APP appearing on behalf of the State.

2. The petitioner seeks bail in connection with Ahiyapur P.S. Case No. 1569 of 2025, registered for an offence under Sections 8(c), 17(c), 18(c), 21(c), 25, 29 and 31 of the N.D.P.S. Act and Section 111 of the B.N.S.

3. As per the prosecution story, which has been lodged on the basis of written report submitted by the informant to the effect that he received an information from S.T.F. (Narcotics Cell), Bihar, Patna that two persons will be coming to Bairiya Bus Stand from Muzaffarpur Railway Station with huge quantity of Heroin. One person is a male and the another person

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is the female and the description of both the persons was also given. To verify the authenticity of the information and after receiving the orders from the higher police authorities, a raiding party was conducted. The informant along with raiding party and the Executive Magistrate as well as the Revenue Officer, who were sent by the District Administration for the purpose, reached at Bairiya Bus Stand at around 19:45 hrs. At around 20:05 hrs, two persons, whose description was give by the S.T.F. (Narcotics Cell), came there with backpack. When they were signalled to stop they felt uncomfortable and tried to escape from there. They were apprehended by the police party and the persons apprehended disclosed their names as the petitioner herein and one Poonam Devi. In presence of two independent witnesses and the Executive Magistrate as well as the Revenue Officer, a search was conducted. Form the pocket of the jacket, which the petitioner was bearing, total 500 grams of Heroin was recovered. From the possession of the co-accused Poonam Devi 516 grams of Heroine was recovered. They disclosed the names of another person from whom they used to purchase and the place and the person, where the Heroin was to be delivered. They informed that for each transactions, they get Rs. 50,000/-.

4. The learned counsel for the petitioner submits

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that the petitioner is innocent and has not committed any offence. He submits that the Heroin was not recovered from the possession of the petitioner and he has falsely been implicated in the present case. He next submits that the mandatory provisions of safeguards and the provisions contained in the NDPS Act regarding search, seizure and recovery were not followed, while making the seizure list. He submits that from perusal of the seizure list itself, there is a suspicion with regard to manner of occurrence, search and recovery. The learned counsel for the petitioner next submits that police has submitted chargesheet in the present case and there is no question of the petitioner tampering with the evidence. He next submits that the petitioner without any criminal antecedent is in custody since 18.11.2025.

5. *Per contra,* the learned A.P.P. appearing on behalf of the State, while opposing the prayer for bail of the petitioner submits that the recovered Heroin from the petitioner is of commercial quantity and the Bar of Section 37(1)(b) of the NDPS Act is applicable in the present case, which says that the persons from whose possession, commercial quantity is recovered, is not entitled for bail.

6. Having considered the rival submissions and after

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going through the materials available on record as well as the case diary, it would transpire that on a confidential information 500 grams of Heroin was recovered from the petitioner and 516 grams of Heroine was recovered from the possession of the co-accused Poonam Devi. The seized Heroin is of commercial quantity and as per Section 37(1)(b) of the NDPS Act, there is a Bar on grant of bail for offence involving commercial quantity. The provisions contained in Section 37(1)(b) of the NDPS Act is reproduced herein below.

> *"37. Offences to be cognizable and non-bailable.—*
> *1. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)—*
> *(a)……..*
> *(b) no person accused of an offence punishable for offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity shall be released on bail or on his own bond unless--*
> *(i)the Public Prosecutor has been given an opportunity to oppose the application for such release, and*
> *(ii)where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail."*

7. Considering that the recovered Heroin is of commercial quantity and the bar on release of the person on bail, this Court is not inclined to grant bail to the petitioner.

8. Accordingly the prayer for bail of the petitioner is

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hereby rejected.

shital/- **(Ritesh Kumar, J)**

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