

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.89272 of 2025

Arising Out of PS. Case No.-212 Year-2025 Thana- SAHEBPUR KAMAL District-
Begusarai

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Gaurav Kumar S/O Bivishan Yadav @ Vipin Kumar Ray R/O Village-
Raghunathpur Karari, Ward No. 04, P.S.- Sahebpur Kamal, District-
Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Saket Kumar, Advocate

For the Opposite Party/s : Mr.Ajit Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 28-01-2026 Heard Mr. Saket Kumar, learned counsel appearing

on behalf of the petitioner and Mr. Ajit Kumar, learned APP for

the State.

2. The petitioner seeks pre-arrest bail in connection
with NDPS Case No. 44/2025 arising out of Sahebpur Kamal
P.S. Case No.212/2025 registered for the offence(s) punishable
under Sections 8(C)/21(b) of NDPS Act.

3. Allegation is under Sections 8(C)/21(b) of NDPS
Act for alleged recovery of 35 grams of smack like product, as
well as, cash of Rs.22,000/- from possession of apprehended
co-accused Shatrughan Yadav from whose possession, the entire
seized quantity was recovered.

4. Learned counsel appearing on behalf of the



petitioner submitted that the petitioner's name has surfaced in this case on the basis of confessional statement of said Shatrughan Yadav, with whom the petitioner has inimical terms. Learned counsel further submitted that petitioner is innocent, though one criminal case is pending against him, as per the information given in paragraph no.3 of the bail application and for the said reason, he has been implicated in the present case on the basis of confessional statement of co-accused, which has no evidentiary value. Learned counsel further submitted that from the perusal of the FIR, it appears that suspicion has been raised that the articles which have been seized are smack like material and unless and until it is examined by the Forensic Science Laboratory and report furnished in that regard, the petitioner should not face prosecution for the alleged offence under Section 8(C)/21(b) of NDPS Act merely on suspicion when he was not present at the place of occurrence. On these grounds, petitioner seeks to be released on pre-arrest bail.

5. Mr. Ajit Kumar, learned APP for the State submitted that the present bail application is not maintainable and as such, the petitioner can seek appropriate remedy in accordance with law, otherwise also, the complicity of the petitioner cannot be denied as he has been named in the present



case on the basis of confessional statement of co-accused from whose possession, huge quantity of smack like material has been recovered and seized.

6. Having considered the rival submissions made on behalf of the parties, as well as, having perused the allegation made in the FIR and the seizure list, the petitioner has denied his allegation on the ground that he is not connected with the co-accused on whose confessional statement, he has been named in the FIR in course of investigation and it is also not clear, as to whether, the seized items are smack or not. In such circumstances, I direct the learned District Court to call for the FSL report and see whether the seized items have been reported to be smack. In case, the same is smack (*diacetylmorphine*), then in that case, **the petitioner don't deserve to be released on pre-arrest bail** and he is required to surrender and seek regular bail before the learned District Court.

7. In case, if seized items are found not to be smack (*diacetylmorphine*), then in that case, the petitioner is directed to be released on pre-arrest bail in connection with NDPS Case No. 44/2025 arising out of Sahebpur Kamal P.S. Case No.212/2025 on such terms and conditions, as the learned District Court deems it fit and proper.



8. The learned District Court is directed to verify the criminal antecedent of the petitioner and if it is found that the petitioner is involved in some other cases, as what has been stated in paragraph no.3 of the bail application, this order will automatically lose its force.

9. The bail application stands disposed of.

(Purnendu Singh, J)

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