

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13144 of 2021**

Arising Out of PS. Case No.-222 Year-2020 Thana- DURGAWATI District- Kaimur (Bhabua)

Sunil Kumar Gupta @ Sunil Sah @ Bablu Sah, Son of Ramayan Sah,
Resident of Village - Dadar, P.S.- Mohania, District - Kaimur at Bhabua

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Mr. Tribhuwan Narayan, Advocate
For the Opposite Party/s	:	Ms. Pushpa Sinha, Advocate

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER**

7 16-09-2021 The matter has been taken up today for
consideration through video conferencing.

The learned counsels are appearing and making
submissions from their residence. The Court Master and
Secretary are also part of this virtual Court proceedings from
their homes, all with the aid of audio visual technology.

Heard learned counsel for the petitioner and the
learned APP for the State.

Learned counsel for the petitioner, on the strength
of a supplementary affidavit filed on 14.09.2021, at the very
outset, submits that due to typographical error, “Durgawati P.S.
Case No.222 of 2020” has wrongly been mentioned as
“Durgawati P.S. Case No.587 of 2016” in paragraph 1 of the



petition. The details, however, have correctly been mentioned in the prayer portion, and is the same as detail of the Police Station Case mentioned in the impugned order and the F.I.R.

Considering the submission of the petitioner's counsel and on going through the records, this Court would direct that "Durgawati P.S. Case No.587 of 2016" in paragraph 1 of the petition be read as "Durgawati P.S. Case No.222 of 2020".

The petitioner seeks bail in connection with N.D.P.S. Case No.29 of 2020 arising out of Durgawati P.S. Case No.222 of 2020 registered for the offence punishable under Sections 8,20(b)(ii)(c), 22 and 27(A) of the N.D.P.S. Act, pending in the court of learned Sessions Judge cum Special Judge, Kaimur at Bhabua.

One accused Umesh Kumar has been taken into custody for alleged recovery of 5 Kgs. of *Ganja* from his possession. He is said to have called the instant petitioner on mobile, whereafter the informant has stated that the petitioner arrived at the place where the said accused Umesh Kumar was detained and he threw Rupees one Lakh cash, bribe for having him released, and fled away.

Further statement of Umesh Kumar has led the



police party to go to the house of co-accused Dukhanti alias Rampati Sah who has stored 390 Kgs. of *Ganja* in ten packets. From the place of Dukhanti, one Bhagwani Devi has also been arrested. Bhagwani Devi has also disclosed that it was the petitioner who concealed the *Ganja* along with co-accused Dukhanti and was carrying on trade of *Ganja* on commission basis, through peddlers.

Learned counsel for the petitioner submits that entire prosecution story does not reveal any recovery from the petitioner. His implication is based on two confessional statements of two co-accused persons, namely, Umesh Kumar and Bhagwani Devi, which cannot be considered relevant.

The submission is that in view of such circumstances, there is sufficient scope for this Court to arrive at a conclusion that the petitioner is not guilty of the offence in view of the parameters contained in Section 37(1)(b)(ii) of the NDPS Act, and petitioner as such is entitled to favourable consideration and grant of bail.

Learned APP has appeared through virtual mode. She has opposed the prayer for bail. It is submitted that two co-accused persons have named the petitioner. In the investigation, material has come to suggest that, in fact, he was one of the



main persons carrying on trade in the contraband substance. Informant as per allegations is a witness to the petitioner's attempt to secure release of apprehended co-accused Umesh Kumar, by rushing to the place of detentiion of the said co-accused, on being telephonically contacted by the said co-accused. On arriving there, he has fled away after throwing Rupees One Lakh for securing release of the said co-accused, who, as per allegations, was one amongst the many peddlers of the petitioner. Thus, the nexus of the petitioner with the illicit trade is established in the investigation. He is also accused in another case under NDPS Act, vide NDPS Case No.23 of 2016. The petitioner therefore would not be entitled to bail in view of the requisite parameters for consideration under Section 37(1) (b)(ii) of the NDPS Act.

Considering the rival submissions as also the facts and circumstances of the case, this Court for the purposes of grant of bail is inclined to accept the submissions advanced by the learned APP for the State. The prayer for bail is rejected, for the present.

The Court, however, would observe that all steps should be taken by the trial court to expedite the trial without unnecessary adjournment or undue delay.



This Court would expect that the petitioner’s counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

PNM

U		T	
---	--	---	--

