

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.19579 of 2021**

Arising Out of PS. Case No.-368 Year-2020 Thana- KUDRA District- Kaimur (Bhabua)

Anil Seth, Son of Late Guptnath Seth R/O Vill.- Ghatawan, P.S.- Kudra, Dist.-
Kaimur At Bhabua

... .. Petitioner

Versus

1. The State of Bihar
2. Ajay Kumar SHO, Kudra Police Station, Dist.- Kaimur At Bhabua

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Ashutosh Tripathy, Advocate
For the Opposite Party/s	:	Mr.Braj Kishore Prasad, APP
For the UOI	:	Mr. Radhika Raman, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 05-08-2021 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner, learned counsel for the Union of India and learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with N.D.P.S. Case No. 50/2020 arising out of Kudra P.S. Case No. 368/2020 registered for the offences punishable under Section 8(c)/20(b) (ii)/B/27(A) of Narcotic Drugs and Psychotropic Substances Act, 1925 (hereinafter referred to as the “N.D.P.S. Act”) and Section 25(1-b)a/26/35 of the Arms Act. He is in custody since 15.12.2020.

Learned counsel for the petitioner submits that as per

the prosecution story from the house of this petitioner one Kg. Ganja has been recovered, however it is the submission of learned counsel for the petitioner that while conducting raid in the house of the petitioner the mandatory provision of Section 42 of the N.D.P.S. Act were not followed which would be evident from the fact that there is no independent witness to the seizure of the Ganja.

It is further submitted that there is also violation of Section 50 of the N.D.P.S. Act. It is lastly submitted that though the F.I.R. has been lodged under various provisions of the N.D.P.S. Act including Section 27(A), a bare reading of the said provision would show that the same would not be applicable on the face of the allegation made in the F.I.R.

Learned A.P.P. for the State as well as learned counsel for the Union of India have though opposed the prayer for regular bail of the petitioner but considering the aforesaid submissions, the quantity of Ganja allegedly recovered from the house of the petitioner which is said to be a joint house and the submission of learned counsel for the petitioner that Section 27(A) of the N.D.P.S. Act is apparently not applicable in the facts of the present case and that the seizure list witnesses are the members of the raiding party only, the petitioner has

otherwise no criminal antecedent and has remained in jail in connection with the present case since 15.12.2020, this court directs release of the petitioner above named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Sessions Judge – cum – Special Judge, Kaimur at Bhabua in connection with N.D.P.S. Case No. 50/2020 arising out of Kudra P.S. Case No. 368/2020, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage

it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.