

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37837 of 2021**

Arising Out of PS. Case No.-603 Year-2019 Thana- BRAHMPUR District- Buxar

Sri Ram Mushar Son of Late Saryu Mushar @ Late Sarju Mushar Resident of
Village- Brahmpur Mushar Toli, P.S.- Brahmpur, District- Buxar.

... .. Petitioner/s

Versus

The Union of India

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar Singh

For the Opposite Party/s : Mr.K.N. Singh (A.D.S.G.)

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

2. 22-09-2021 Heard learned counsel for the parties through video conferencing.

The petitioner seeks bail in N.D.P.S. Case No. C.I.S. No. 20/2019 (Brahmpur P.S. Case No. 603/2019), registered for the offence under Sections 21, 22(c) of the N.D.P.S. Act.

As per prosecution case, 242.09 gm. of *Heroine* has been recovered from the house of the petitioner.

It is submitted on behalf of petitioner that nothing has been recovered from the possession of the petitioner. Petitioner has been made accused in this case, because he is father of co-accused Shiv Kumar Mushar and Suraj Mushar. Mandatory provision with regard to search and seizure has not been followed. The alleged recovered *Heroine* is less than commercial quantity and as such, rigors of Section 37 of the



N.D.P.S. Act would not be attracted in this case. Similarly situated co-accused namely Rajmanti Devi and Shiv Kumar Mushar have already been granted bail by a coordinate Bench of this Court, vide order dated 12.03.2021 passed in Cr.Misc. No. 1189 of 2021. Petitioner is in custody since 27.12.2019. Investigation is complete.

However, learned counsel for the Union of India has opposed the bail petition and submitted that in this case, huge quantity of *Heroine* has been recovered from the house of the petitioner.

Considering the aforesaid facts and circumstances, I am not inclined to grant bail to the petitioner and same is accordingly rejected.

However, once charge is framed and trial commences, the petitioner shall be released on bail by the learned trial court on its own satisfaction and on the condition that he will cooperate in disposal of trial and appear before the trial court, as and when required.

(Prabhat Kumar Singh, J.)

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