

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.39034 of 2020**

Arising Out of PS. Case No.-165 Year-2020 Thana- UDWANTNAGAR District- Bhojpur

VIKASH PANDIT Son of Late Dinanath Pandit Resident of Village -
Shahpur, Police Station - Shahpur in the District of Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar, Adv.

For the Opposite Party/s : Mr.Aslam Ansari, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 23-07-2021 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 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.11/2020 (arising out of
Udwant Nagar P.S. Case No.165/2020) registered for the
offences punishable under Sections 8/20(B)(II)(b) of the
N.D.P.S. Act.

The prosecution story in short is that on 12.05.2020
the O.P. Incharge of Gajrajganj O.P. namely Sanjay Kumar
recorded his self-statement alleging therein inter alia that at



about 4.30 pm he along with other police personnel proceeded for vehicle checking and at about 6.20 pm when he reached at N.H.84 on Ara-Buxar Road near Masadh more then he found that one TVS Luna standing there on which two persons were boarded and the third person was keeping a plastic bag on Luna. It is further alleged that on seeing the police party all the three persons started to flee away but on chase two persons were apprehended who disclosed their name as Vikash Pandit (petitioner) and Sunil Kumar Prasad and on search from the plastic bag 12.110 kg ganja was recovered.

Learned counsel for the petitioner submits that in this case there is a blatant violation of Section 42 of the N.D.P.S. Act, 1985. A sub-inspector of police has searched the petitioner and he himself prepared the seizure list and samples without following the established procedure of law.

Learned counsel further submits that the quantity of Ganja recovered is less than the commercial quantity and as such the rigorous of Section 37 of the N.D.P.S. Act, 1985 is not attracted in this case.

Learned counsel submit that the petitioner has otherwise no criminal antecedent and the co-accused similarly situated has been granted bail by a learned coordinate Bench of



this Court in Cr.Misc.No.3135/2021.

Learned APP for the State has though opposed the prayer for regular bail of the petitioner saying that the motorcycle in question belonged to this petitioner, this Court have noticed that the FIR does not talk of compliance of Section 42 of the N.D.P.S. Act, 1985 and further the quantity of Ganja allegedly seized is less than the commercial quantity, the co-accused have been granted bail by learned coordinate Bench of this Court and that the petitioner has remained in jail in connection with this case since 13.05.2020, investigation against him is complete but the trial is not likely to take place in near future, this Court directs that the petitioner above named be released on bail on furnishing 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, Bhojpur at Ara in connection with N.D.P.S. Case No.11/2020 (arising out of Udwant Nagar P.S. Case No.165/2020), 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)

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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'.

