

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.5508 of 2021**

Arising Out of PS. Case No.-497 Year-2020 Thana- KANTI THARMAL POWER District-
Muzaffarpur

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SONU KUMAR, S/o Tuntun Paswan, Resident of Village- Sadatpur, Tole
Choube, P.S.- Kanti, District- Muzaffarpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

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

For the Opposite Party/s : Mr.Bharat Bhushan, A.P.P.

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

5 28-07-2021 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 Mr.

Bharat Bhushan, 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. 68 of 2020 arising out of

Kanti P.S. Case No. 497 of 2020 registered for the offence

punishable under Section 401 of the Indian Penal Code, Section

8/20(b)(ii), 22 (C) of Narcotic Drugs and Psychotropic

Substances Act (in short ‘N.D.P.S. Act’) and Section 25 (1-

b)a/26/35 of the Arms Act.

Learned counsel for the petitioner submits that as per

prosecution story from the joint possession of the petitioner and two other co-accused 1 Kg. Charas kept in a plastic bag has been recovered. From the exclusive possession of this petitioner one steel knife and a motorcycle has been seized.

Learned counsel submits that although the weight of the Charas is said to be 1 Kg. which would be commercial quantity, as per prosecution story the same has been recovered from joint possession of the three accused, therefore, it is a case in which the petitioner is being involved in this case under the N.D.P.S. Act not on any exclusive allegation that he was in possession of Charas.

Learned counsel further submits that on perusal of the First Information Report and the seizure list it would appear that the Inspector of Police had prior secret information that the four boys who are having illegal weapons are planing to commit a crime and they are also having narcotic drugs in their possession, still no information was given to any gazetted officer and the police party claims to have reached the place of occurrence and chase the petitioner and the co-accused. The safeguards provided to an accused under Section 42 of the N.D.P.S. Act, 1985 was completely violated, the search was made by police and two members of the police party have been

made witness to the seizure list.

Learned counsel further submits that after his arrest in the present case only the petitioner has been taken on remand in two other cases. The petitioner is in custody in connection with this case since 19.08.2020, investigation against him is complete but the trial is not likely to take place in near future.

Mr. Bharat Bhushan, learned A.P.P. for the State has though opposed the prayer for bail of the petitioner, however, after going through the case diary, learned A.P.P. accepts that the seizure of 1 Kg. of Charas has been shown from joint possession of the three accused because there being any specific allegation that this petitioner was carrying the plastic bag in which alleged narcotic substance was kept.

Considering the facts and circumstances of the case wherein this Court has noticed that the Inspector of Police is said to have searched the person of four accused, and according to him from the joint possession of three accused one plastic bag has been recovered in which some substance like Charas were kept, there is no statement that the petitioner was carrying the bag, the petitioner has remained in jail in connection with this case for about one year approximately, investigation against him is complete, at the first instance it seems that during the search

no gazetted officer was present, this Court directs release of the petitioner above named 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 4th Additional Sessions Judge, Muzaffarpur in connection with N.D.P.S. Case No. 68 of 2020 arising out of Kanti P.S. Case No. 497 of 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'.