

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16360 of 2022**

Arising Out of PS. Case No.-640 Year-2021 Thana- AHYAPUR District- Muzaffarpur

KISHAN KUMAR Son of Mr. Mukesh Mahto Resident of Village - Sherpur
Near Shiv Mandir, P.S. - Sadar, District - Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Vaishnavi Singh
For the Opposite Party/s : Mr. Kumar Veerendra Narayan

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

- 2 17-05-2022 Heard learned counsel for the petitioner and the State.
- Petitioner seeks regular bail in a case registered for the offence punishable u/s 25(1-AA), 26, 35 of Arms Act and under Section 20(b)(ii)(B) of the N.D.P.S. Act.
- As per the prosecution case, one country made pistol, five live cartridges and 19 gram of Smack has been recovered from the possession of the petitioner.
- Learned counsel appearing for the petitioner submits that petitioner is innocent and has falsely been implicated in the case. No incriminating article has been recovered from the conscious possession of the petitioner and he is no way concerned with the alleged recovery. It is submitted that mandatory provision with regard to search and seizure has not been followed and since the recovered quantity of narcotic



substance is less than commercial quantity, rigours of Section 37 of the NDPS Act could not be attracted against this petitioner. Petitioner claims clean antecedent and is in custody since 21.09.2021 and investigation in this case is complete.

Learned counsel appearing for the State opposes the prayer for bail and submits that more than small quantity of Smack has been recovered from the possession of the petitioner.

Considering the facts aforesaid, I am not inclined to enlarge the petitioner on bail. Accordingly, the same is rejected.

However, once charge is framed and trial commences, the petitioner, shall be released on bail by the trial court to its own satisfaction on the condition that the petitioner will co-operate in the trial.

(Prabhat Kumar Singh, J)

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