

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22562 of 2022

Arising Out of PS. Case No.-47 Year-2022 Thana- KUDHNI District- Muzaffarpur

Nitesh Kumar S/o Bhola Ram Resident of village - Kishunpur Mohini, P.S. -
Kudhani, District - Muzaffarpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Suman Kumar Verma, Advocate.

For the Opposite Party/s : Mr.Nirmal Kumar Sinha, APP.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 21-07-2022 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within

one month.

Heard learned counsel for the petitioner and the
learned APP for the State.

Petitioner seeks regular bail in connection with
Kudhani P.S. case no. 47 of 2022 registered for the offence
punishable under Section 414/34 of the Indian Penal Code and
Section 25(1-b)/26/35 of the Arms Act and Section 8/20/22
NDPS Act.

On a secret information received by the police party,
they went to alleged place of occurrence and found that two
persons were standing beside a motorcycle, who attempted to
flee on seeing the police party but later they were apprehended



by the police and on search from the possession of petitioner one country made pistol three small bags containing smack like substance and two mobile phones were recovered and from the possession of the co-accused some contraband was recovered.

The main submissions advanced by learned counsel for the petitioner are that the petitioner has clean antecedent, in fact the petitioner was taken into police custody by the police on 17.01.2022 from his house and thereafter the petitioner's grand father lodged a complaint on 21.1.2022 along with the affidavit with the signature of 130 co-villagers raising question against petitioner's false detention by the police. Further submission is that in the FIR the alleged contraband is stated to be smack like substance but its quantity has not been mentioned in the FIR which also shows the malice intention on the part of preparing the FIR. Further submission is that the mandatory provision of section 50 of NDPS Act were not complied with and while making the search on the petitioner as admittedly, the search was not made by the executive magistrate and more over the said search was not made under independent witness.

Learned APP has opposed the prayer for bail.

Heard both the sides and perused the FIR and the annexures submitted by the petitioner which are attached to the



petition. Petitioner is stated to be Nineteen years old and he has been languishing in jail since 20.1.2022 having clean antecedent and in the FIR the quantity of alleged suspected narcotic material has not been revealed and the alleged recovery of contraband was made before the police personnel. In the light of these facts as well as considering the above submissions this Court is of the opinion that petitioner deserves to bail in respect of petitioner's prayer let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of concerned Court in connection with Kudhani P.S. case No. 47 of 2022.

(Shailendra Singh, J)

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