

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37764 of 2021

Arising Out of PS. Case No.-150 Year-2021 Thana- KUCHAIKOTE District- Gopalganj

HARKESH KUMAR Son of Late Guddu Sah Resident of Village Chainpatti,
P.S. and District - Gopalganj.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ajay Kumar Jain
For the State	:	Mr.Bhanu Pratap Singh

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 28-02-2022 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Let the defects, as pointed out by the office, be removed within four weeks of start of normal functioning of the physical court.

Petitioner seeks bail in connection with Kuchaikot P.S. Case No. 150/ 2021 registered for the offences punishable under Section 21(a) of the N.D.P.S. Act.

There is recovery of 5 gm heroin from possession of the petitioner.

Learned counsel for the petitioner submits that petitioner has clean antecedent and has committed no offence and he has falsely been implicated in the present case. He further submits that the mandatory provision under Section 50



of the NDPS Act has not been complied. He further submits that it appears from the FIR that contraband substance has been recovered from possession of the petitioner. He further submits that as per FIR, 5 gm heroin was recovered from possession of the petitioner. He further submits that the recovered substance from possession of the petitioner is less than the commercial quantity and, hence, there is no bar under Section 37 of the NDPS Act to grant bail to the petitioner. He further submits that police after investigation submitted charge sheet against the petitioner and the petitioner is in custody since 14.04.2021.

The learned Additional Public Prosecutor vehemently opposed the prayer of bail and submits that FSL report confirms that the recovered substance is heroin.

Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 25,000/- (Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge, Gopalganj in connection with Kuchaikot P.S. Case No. 150/21 (Trial No. 25/21), subject to the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date



fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. 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.

(Rajesh Kumar Verma, J)

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