

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45038 of 2022

Arising Out of PS. Case No.-155 Year-2022 Thana- KUDRA District- Kaimur (Bhabua)

Vikash Upadhyay Son Of Devashankar Upadhyay R/O Village- Panapur,
P.S.- Kargahar, District- Rohtas

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Surendra Kumar Choubey, Advocate

For the Opposite Party/s : Mr. Jagdhar Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 29-11-2022 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 Kudra P.S. Case No. 155 of 2022 registered for the offences punishable under Sections 8(c), 20(b)(ii)(b), 29 and 27(A) of NDPS Act.

As per the prosecution, the informant along with other police personnel acting upon a secret information raided the alleged place and apprehended this petitioner and other co-accused persons and upon making search 12.206 Kg. of narcotic material suspected to be *Ganja* was recovered.



The main submissions advanced by learned counsel Mr. Surendra Kumar Choubey appearing for the petitioner are that the alleged recovery of Narcotic material suspected to be *Ganja* comes under the purview of intermediate quantity which is less than commercial quantity and moreover the alleged recovery was made from the house of co-accused Radha Mohan Gupta, though as per the prosecution the petitioner was apprehended at the house of the said co-accused but from his conscious position no recovery of contraband was made. Further submission is that the bar mentioned in Section 37 of NDPS Act does not apply in this matter and the petitioner, who has clean antecedent, has been languishing in jail since 14.06.2022 and against him the investigation has been completed.

Learned APP Mr. Jagdhar Prasad appearing for the State has opposed the bail prayer.

Having considered the above submissions and mainly the facts that the recovery of the alleged contraband was made from the house of the co-accused and the petitioner was simply found to be present at the house of the co-accused when the police raided the said house and there is no allegation as to recovery of any type of contraband having been made from the conscious possession of this petitioner and also considering the



petitioner’s clean antecedent and his custody period, in the opinion of this Court, a lenient approach can be taken in respect of the 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 Kudra P.S. Case No. 155 of 2022.

(Shailendra Singh, J.)

Prashant/-

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