

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.48650 of 2022**

Arising Out of PS. Case No.-309 Year-2022 Thana- MOHANIYA District- Kaimur (Bhabua)

Kamaruddin Quraishi @ Bhola Son of Late Badruddin Quraishi Resident of
Village - Belaudi, P.s.- Mohania, Distt.- Kaimur. Petitioner

Versus

The State of Bihar Opposite Party

Appearance :

For the Petitioner/s : Mr. Pawan Kumar Singh, Advocate

For the Opposite Party/s : Mr. Amit Kumar Rakesh, APP

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

2 09-12-2022 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within two weeks from today.

Heard learned counsel for the petitioner and Mr. Amit Kumar Rakesh, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Mohania P.S. Case No. 309 of 2022 registered for the offences punishable under Section 8(b)/22(b) of the Narcotic Drugs and Psychotropic Substances Act (in short 'N.D.P.S. Act'). He is in custody since 13.06.2022. The petitioner has got one criminal antecedent.

Learned counsel for the petitioner submits that as per the prosecution story, P.S.I. gave information to the S.H.O. Mohania Police Station that in Village Belaudi, Md. Kamruddin Quraishi (petitioner) is indulged in trade of illicit liquor. On this



information, the informant along with other police officials reached at the said place where one person (petitioner) on seeing the police party tried to flee away but was apprehended and on search of the petitioner, 55 purias wrapped in white polythene containing heroin like substance weighing about 12.40 gms and a mobile phone were recovered.

Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. It is submitted that the petitioner is in custody in connection with this case since 13.06.2022.

Learned counsel submits that the quantity of heroin recovered is less than commercial quantity, therefore, rigors of Section 37 of the NDPS Act would not be attracted.

Mr. Amit Kumar Rakesh, learned APP for the State is present and has opposed the prayer for regular bail of the petitioner.

Having regard to the submission that as per the FIR and the seizure list, 12.40 gms of a substance like heroin together with the 'purea' has been recovered, therefore, it is not clear as to how much is the actual weight of the alleged heroin and there being no scientific test of the same, the quantity being less than commercial quantity, therefore, rigors of Section 37 of the NDPS Act would not be attracted, the petitioner who has no criminal antecedent



except that there is a case in connection with a family dispute in which he is on bail, in this case he is in custody since 13.06.2022, investigation against him is complete, this Court directs that the petitioner above named be released 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 Sessions Judge -cum- Special Judge, Kaimur at Bhabua in connection with Mohania P.S. Case No. 309 of 2022, subject to the condition as laid down under Section 437 (3) Cr.P.C.

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 steps 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.

This application is allowed.

Certified copy of this order shall be made available only after removal of the defects.

(Rajeev Ranjan Prasad, J)

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