

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.61465 of 2021

Arising Out of PS. Case No.-367 Year-2018 Thana- ADAPUR District- East Champaran

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KAMLESH GUPTA, age 33 years, Son of Late Vasudeo Gupta @ Basudeo Gupta Resident of village- Belaiya, Police Station- Belaiya, in the district of Rupandehi, Nepal

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bimal Kumar, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

6 23-02-2022 Learned counsel for the petitioner undertakes to remove the defect(s) as pointed out by the office within a period of four weeks from the date when the physical filing is permitted.

The Petitioner seeks bail in a case registered for the offence punishable under Sections 8(c) and 21(c) of the NDPS Act.

Allegation is of recovery of 275 grams (with polythene) of Heroin from the possession of petitioner.

Earlier also, petitioner had moved this Court for grant of regular bail which was rejected vide Annexure 1 with a

direction to the court below to expedite the trial and conclude the same within one year and if trial is not concluded within the aforesaid period, petitioner would be at liberty to renew his prayer for bail.

It has been submitted on behalf of the petitioner that he is innocent and has falsely been implicated in this case. It is further submitted that it is alleged that 275 grams (with polythene) of Heroin has been recovered from the possession of the petitioner which is 25 grams more than commercial quantity. It is further submitted that mandatory provision of NDPS Act in respect of search and seizure has not been complied and there is no independent witness of the occurrence and recovery.

Petitioner has no criminal antecedent and he is in custody since 17.12.2018, i.e., more than 3 years.

Considering the aforesaid facts and circumstances of the case, let the petitioner named above be released on bail upon furnishing bail bond of Rs. 20,000/- with two sureties of the like amount each to the satisfaction of learned court below where the case is pending in connection with Adapur P.S. Case No. 367/2018 with following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the court

concerned.

(2) 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 his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the court below.

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

(S. Kumar, J)

Sanjay/-

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