

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64628 of 2021

Arising Out of PS. Case No.-160 Year-2021 Thana- RAJAPAKAR District- Vaishali

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VIJAY KUMAR Son of Kedar Das Resident of Village - Kutubpur Saidpur,
Ward No.- 6, P.S.- Bidupur, District - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Niraj Kumar

For the Opposite Party/s : Mr. Choubey Jawahar

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 15-04-2022 Today being Friday, matters are being taken up through
virtual mode as per current procedure for hearing.

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

This Court would expect that the petitioner's Counsel
would honour his undertaking in the instant proceedings
regarding supply of requisite court fee etc. within two weeks
from the date he is called upon to do so by the office.

Petitioner seeks bail in connection with Rajapakar P.S.
Case No. 160 of 2021 registered under Sections 8/20(b)(ii)
(c)/22/25/29 of NDPS Act.

There is allegation that 25 Kg. 850 gram *ganja* has been
recovered from the *Tempo* being driven by the petitioner.

The learned counsel for the petitioner submits that the



petitioner, having no criminal antecedents, has remained in custody now for nearly 10 months. He, by reading the FIR, submits that admittedly the search and seizure is contrary to the mandatory procedure prescribed under Section 50 of the Narcotic Drugs And Psychotropic Substances Act, (NDPS Act). The submission is that the search and seizure has not been done in presence of a gazetted officer.

The learned APP submits that recovery being commercial quantity, the petitioner's prayer for bail is barred under Section 37(1)(b) of the NDPS Act. The submission is that from perusal of the FIR, it is obvious that the informant has asked the petitioner, whether he requires himself to be searched in presence of a gazetted officer, and only after such opportunity, the search has been made. There is apparent compliance with Section 50 of the NDPS Act.

Considering the rival submissions, this Court would observe that submissions advanced by the petitioner's counsel do not make out requisite circumstances for grant of bail as an exception by lifting the bar as stipulated under Section 37 of the NDPS Act. This Court, for the present, is not inclined to allow petitioner's prayer for bail. The same is rejected.

The application for bail is thus dismissed.



It is, needless to say, that having regard to the stringent nature of the statutory provisions, this Court would expect that the trial court would proceed with the trial expeditiously without any unnecessary adjournment and undue delay.

(Madhuresh Prasad, J)

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