

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67693 of 2021**

Arising Out of PS. Case No.-4 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Aurangabad

VIKASH KUMAR GUPTA @ VIKESH KUMAR GUPTA S/o Surendra
Prasad Gupta R/o village - Naudiha, P.S.- Panki, District- Palamu (Jharkhand)
... .. Petitioner/s

Versus

1. The State of Bihar
2. The Union of India New Delhi

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Amit Anand, Advocate
For the UOI	:	Mr. Ram Anurag Singh, CGC
For the State	:	Ms. Suman Kumari Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 16-05-2022 Heard learned counsel for the parties.

Let the defect(s), if any, be removed within a period of
four weeks after complete start of the physical Court.

The petitioner seeks bail in a case registered for the
offences punishable under Sections 8(c), 18(b) and 29 of the
Narcotic Drugs and Psychotropic Substances Act, 1985.

Learned counsel for the petitioner submits that the
petitioner is in custody since 09.07.2021, charge-sheet has been
submitted and is a person with clean antecedent.

Allegation is of recovery of 5.250 Kg. of opium from
Pramod Prasad.

Learned counsel for the petitioner submits that the name
of the petitioner transpired in the confessional statement of
Pramod Prasad and the petitioner came to be implicated based on



an investigation where the NCB Official have found that it was this petitioner who had sold the opium to Pramod Prasad in view of which he received Rs.70,000/- in his SBI Account. Learned counsel further submits that it absolutely does not stand to reason that a person, who is dealing in the business of narcotic, would accept payment of the narcotic in his account. Learned counsel further submits that from perusal of the counter affidavit, it would manifest that it was one Shashikant Kumar who had transferred the said amount in the account of the petitioner but during the course of investigation the NCB alleges that it was petitioner who had transferred the said amount in his account as Shashikant Kumar before the NCB had alleged that Pramod Kumar was operating his account. Learned counsel, thus, submits that it absolutely does not stand to reason that if Shashikant Kumar's account was being operated by the petitioner then why Shashikant Kumar was not made an accused in this case. It is further submitted that petitioner is a businessman who runs a tent house in the name of Maha Laxmi Tent House and Decoration. It is further submitted that Annexure-2 to the bail application would amply demonstrate that it was Shashikant Kumar who had taken the tent and decoration item for which a bill was raised in view of such the said payment was made. It is further submitted that even admitting what has been alleged is true without accepting for the purpose of



bail then at best the name of this petitioner transpired in the confessional statement of accused under Section 67 of the NDPS Act which has no evidentiary value. Learned counsel at the cost of the repetition submits that a criminal, who deals in narcotic, would not accept money in his own account and, thus, create an evidence against himself. It is, thus, submitted that the NCB Officials sitting in their official chamber are investigating the cases and implicating innocent people.

Learned counsel for the NCB opposes the bail application but is not able to meet the submission of the learned counsel for the petitioner that if Pramod Prasad was using the account of Shashikant Kumar then why Shashikant Kumar is not an accused in the present case and why the petitioner accepted the money from Pramod Prasad in his account and, thus, creating an evidence against himself with regard to the occurrence. Learned counsel further submits that NCB has also investigated the CDR of the petitioner wherein it was found that petitioner has talked to Pramod Prasad for nearly eight times.

Learned counsel for the petitioner rebuts the submission made by the learned counsel for the NCB and submits that Pramod Prasad is brother-in-law (Jija) of Shashikant Kumar and it was Shashikant Kumar who had booked the tent from his tent house and when the entire payment was not made he was requesting



Pramod Kumar to make the payment in lieu whereof the said payment was made through Pramod Prasad from the account of Shashikant Kumar based on which the petitioner came to be implicated.

Considering the fact that the petitioner is in custody since 09.07.2021, charge-sheet has been submitted and is a person with clean antecedent and taking into consideration the submissions made by the learned counsel for the petitioner, the petitioner, above named, is directed to be released on bail on furnishing bail bond of Rs.25,000/- (Rupees Twenty-five Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with NCB Case No. 04 of 2021.

A copy of the counter affidavit supplied on behalf of the learned counsel for the petitioner duly served by the learned counsel for the NCB is kept on the record.

Learned counsel for the NCB undertakes to file a copy of the counter affidavit today after getting the stamp.

(Satyavrat Verma, J)

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