

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16053 of 2023

Arising Out of PS. Case No.-299 Year-2022 Thana- KUDRA District- Kaimur (Bhabua)

DHARMENDRA KUMAR S/O VIJAY SAH Resident of Village- Jehanabad
Kudra, P.S.- Kudra, District- Bhabua at Kaimur

... .. Petitioner/s

Versus

1. The State of Bihar
2. UNION OF INDIA (N.D.P.S.) NEW DELHI

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vinod Kumar Seth, Adv.
For the Opposite Party/s : Mr.Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 27-06-2023 Heard learned counsel for the petitioner and the

learned counsel appearing for the Union of India as well as the

learned A.P.P. for the State.

The petitioner seeks bail in connection with Kudra P.S.
Case No. 299 of 2022 registered for the offence under Sections
8(c), 21(b) of the N.D.P.S. Ac.

Recovery is of 6.910 gram of heroine.

Learned counsel appearing for the petitioner submits
that the petitioner, who is of clean antecedent, is innocent and
has falsely been implicated in this case. He further submits that it
appears from the F.I.R. and the seizure list that altogether 6.910
gram of heroine has been recovered from the possession of the
petitioner. He further submits that there is non-compliance of
Section 50 of the N.D.P.S. Act. He further submits that as per



notification issued under the N.D.P.S. Act, 1985, the small quantity of heroin has been specified as 5 grams, whereas the commercial quantity has been specified as 250 grams. In fact, in this case, the total recovery is of 6.910 gram as per seizure list, thus, it is apparent that the quantum of alleged heroin recovered from the possession of the petitioner does not fall within the purview of commercial quantity. Hence, there is no bar for this Court to grant the privilege of bail to the petitioner. The petitioner is rotting in judicial custody since 26.10.2022.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner and submits that the F.S.L. report confirms that the alleged recovery is a narcotic substance and said to be Heroin.

Considering the facts and circumstances of the case, let the, above named, 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 learned Special Judge -cum- Special Judge, Kaimur at Bhabua in connection with Kudra P.S. Case No. 299 of 2022 with the following conditions:-

(1) 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 on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.



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

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 step 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.

(Rajesh Kumar Verma, J)

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