

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20775 of 2022**

Arising Out of PS. Case No.-249 Year-2021 Thana- BRAHMPUR District- Buxar

BHIKHARI YADAV @ DEEPU YADAV Son of Mahesh Yadav R/O Village -
Chhotka Purwan, P.S.- Brahampur, District - Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Umesh Kumar Singh
For the Opposite Party/s : Mr.Rajendra Nath Jha

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

3 04-01-2023 Heard the learned counsel for the petitioner
and the learned APP for the State.

The petitioner seeks regular bail in connection with NDPS Case No. 18/2021, arising out of Brahampur (Krishnabrahm) P.S. Case No. 249/2021, registered for the offence punishable under Sections 25(1-b)a/26/35 of the Arms Act and Section 20(II)/22/25 of the NDPS Act.

The case of the prosecution, in brief, is that the informant got secret information on 23.5.2021 at about 17:45 hours that at the village Dubhki crossing near Brahmsthan, the petitioner along with his accomplice is going to arrive for selling



heroine, whereupon the informant along with his police force had left for the said place of occurrence, where one person was standing with his motorcycle and upon seeing the police force, he tried to flee away, but was apprehended by the police and upon interrogation, he disclosed his name to be Bhikari Yadav i.e. the petitioner herein. It is also alleged that the police had conducted search of the apprehended petitioner and had recovered one country made pistol, two live cartridges and 10 grams of heroine.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and he is languishing in custody since 24.5.2021. It is submitted that though the petitioner is an accused in 13 other cases, but he is on bail in all the said cases. Lastly, it is submitted that considering the period of incarceration of the petitioner herein, the petitioner be admitted to the privilege of bail.

Per contra, the learned APP for the State has



vehemently opposed the prayer for bail.

I have heard the learned counsel for the parties and gone through the materials available on record as also those available in the case diary from which the complicity of the petitioner in the alleged crime is writ large. This Court further finds that the petitioner is stated to be an accused in 13 other criminal cases, hence, has a bad criminal antecedent, which alone is sufficient to deny the petitioner, the privilege of bail. In this connection, reference be had to a judgment rendered by the Hon'ble Apex Court, reported in (2012) 9 SCC 446 (**Ash Mohammad v. Shiv Raj Singh and Another**) wherein the Hon'ble Apex Court has held that criminal antecedents of an accused are also to be weighed in the scale of collective cry and desire. The societal concern has to be kept in view in juxtaposition of individual liberty and further social concern deserves to be given priority over lifting the restriction on liberty of the accused in such cases.



Under such circumstances, I do not find any merit in the present petition, hence, the same stands dismissed.

(Mohit Kumar Shah, J)

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