

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24002 of 2024

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

Bhikhari Yadav @ Dipu Yadav Son of Mahesh Yadav Village- Chhotka Purva
P.S.- Brahmpur Dist- Buxar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate Mr. Shashank Shekhar, Advocate Mr. Kumar Rajdeep, Advocate
For the Opposite Party/s	:	Mr. Satyendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 12-07-2024 The present petition is by way of second attempt at the behest of the petitioner for grant of bail in connection with N.D.P.S. Case No. 18 of 2021, arising out of Brahampur (Krishnabraham O.P.) P.S. Case No. 249 of 2021, registered for the offences punishable under Sections 25(1-b)a, 26 and 35 of the Arms Act and Sections 20(II), 22 and 25 of the NDPS Act, 1985, inasmuch as the earlier petitions of the petitioner for grant of regular bail have all stood rejected by this Court vide orders dated 04.01.2023 and 05.07.2023 passed in Criminal Misc. No. 20775 of 2022 and Criminal Misc. No. 42028 of 2023, respectively.

2. 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.

3. The learned senior 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 24.05.2021. The learned senior counsel for the petitioner has further submitted that though the petitioner is an accused in 18 other criminal cases but he is on bail in all the said 18 cases. Lastly, it is submitted that the quantity of heroine recovered



from the petitioner is not commercial quantity as per the Schedule notified under the provisions of the NDPS Act, 1985, hence considering the period of incarceration of the petitioner, he be admitted to the privilege of bail.

4. *Per contra*, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

5. Having regard to the facts and circumstances of the case, considering the submissions made by the learned senior counsel for the petitioner and taking into account the materials available on record as also considering the period of incarceration of the petitioner herein i.e. more than three years, apart from the fact that the quantity of heroine recovered from the petitioner is not commercial quantity as per the Schedule notified under the provisions of the NDPS Act, 1985, though I deem it fit and proper to admit the petitioner to the privilege of bail but subject to certain conditions.

6. Accordingly, the petitioner, above named, is directed to 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 Additional Sessions Judge-4, Buxar in connection with NDPS Case No. 18 of 2021, arising out of Brahampur (Krishnabraham O.P.) P.S. Case No. 249 of 2021, subject to the following conditions:-

- (i) One of the bailor shall be father of the petitioner and the other one shall be his wife;*
- (ii) The petitioner shall mark his attendance before the Officer In-Charge of the concerned Police Station at 10:00 A.M. on every Monday of the week, starting from the day he is released from custody and in the event of his failure to do so on two consecutive occasion, the present privilege of bail being extended to him shall stand cancelled automatically and the petitioner shall be liable to be taken into custody forthwith.*

(Mohit Kumar Shah, J)

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