

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61935 of 2021

Arising Out of PS. Case No.-55 Year-2019 Thana- RAXAUL District- East Champaran

RAM NARAYAN PRASAD S/o Late Pashupati Sah @ Papat Sah @ Pashpat Sah R/o Mohalla- Raxaul, Ward No. 12, P.O. and P.S.- Raxaul, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Shahnawaz Ali

For the Opposite Party/s : Mr. Pramod Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 24-03-2025 Heard the parties.

2. The present application has been filed for quashing of cognizance order dated 16.11.2019 along with F.I.R. and its consequential order of cognizance taken for the offences under sections 21, 22 and 23 of the NDPS Act in connection with N.D.P.S. Case No. 23 of 2019, arising out of Raxaul P.S. Case No. 55 of 2019, pending in the court of learned Sessions Judge, East Champaran at Motihari.

3. The prosecution case in brief is that two cartoons containing Narcotic substance (1) Diazelab (2 ml) injection 2500 pieces (2) Phenargan 25 Mg. Drugs injection- 1200 pieces and (3) Nitrovet-10-3600 tablets has come in the petitioner medical store were recovered. Then the petitioner was arrested



and Raxaul P.S. Case No. 55 of 2019 was registered against him.

4. The investigation has been concluded and charge-sheet has been submitted. Cognizance has been taken under sections 21, 22 and 23 of the N.D.P.S. Act.

5. Learned counsel for the petitioner submits that cognizance has been taken under sections 21, 22 and 23 of the NDPS Act in which charge-sheet was not submitted and therefore the impugned order of cognizance is illegal. He also submits that the FSL report has not come till date.

6. Learned APP for the State has opposed the present application and has defended the cognizance order.

7. I have considered the submissions of the parties. The court below has taken cognizance of offence. Levelling of sections is not important at this stage. If the petitioner submissions are to be examined they can be examined at the stage of framing of charge and not at the stage of cognizance. The court below will also frame charges only if there is a FSL report saying that the materials seized are illegal.

8. Accordingly, this application is dismissed with liberty to the petitioner to raise all the grounds at the stage of framing of charge. If such an application is filed, the court



below will consider the same in light of the law laid down by
Hon’ble Supreme Court in the case of ***Kanchan Kumar vs.***
State of Bihar (2022) 9 SCC 577.

(Sandeep Kumar, J)

Ranjeet/-

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