

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27179 of 2016

Arising Out of PS.Case No. -93 Year- 2016 Thana -KOCHADHAMAN District- KISANGANJ

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1. Md. Najir Akhter @ Md. Najeer Akhtar S/o Mohsin Alam @ Mosin Alam

2. Md. Sabir Ali S/o Sekh Kalam

3. Tazibuddin S/o Late Imamuddin

All are R/o village - Majlishpur, P.S. Golpokhar, District - Uttar Dinajpur
(West Bengal)

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Diwakar Sinha, Advocate

For the Opposite Party/s : Mr. Smt. Anita Kumari Singh

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

4 18-08-2016 Heard learned counsel for the petitioners and
the State.

Petitioners are languishing in custody since 17.05.2016 in a case registered for the offences punishable under Sections 21, 22, 23 of the Narcotics Drugs and Psychotropic Substances Act.

The prosecution case is that the informant being Deputy Commandant, 12th Batalian, Seema Surakshabal, Kishanganj, received information that one person is carrying some narcotics and psychotropic substance to Nepal from Uttar Dinajpur via Kishanganj, Bahadurganj Powakhali. Consequently a Scorpio vehicle was intercepted from which four persons were apprehended, three were

petitioners and one was the driver Tazibuddin. From the back seat of the vehicle, 334 G.m of heroin like powder in a black polythene was recovered.

It is submitted by the learned counsel for the petitioners that the vehicle in question was hired by Habibullah @ Habe as he was going to Raiganj Registry Office for getting a sale deed with regard to a land registered, but on the way, on the direction of Habibullah @ Habe the vehicle was taken towards Kochadhaman, but Habibullah @ Habe escaped from the scene, who wanted to purchase land of the relative of petitioner no.1. Petitioner no. 1, Md. Najir Akhter @ Najeer Akhtar is fertilizer dealer, whereas petitioner nos. 2 and 3 namely Md. Sabir Ali and Tazibuddin are the staff of petitioner no. 1. It is further submitted that the seizure has not been made from the possession of the petitioners. The vehicle in question was neither registered in the name of the petitioners nor the driver suggested that it was hired by the petitioners. The report of the F.S.L. was called from the Director of Forensic Science Laboratory vide order dated 01.08.2016. The report has come in sealed bag which is opened by Mr. J.N Thakur, learned counsel for the State. The report has been signed by the Senior Scientific Officer and countersigned by the Director of the Forensic Science Laboratory which suggests that from the sample of the white colour powder no trace of

heroin has been found. Though, the report does not suggest the actual chemical component of the transmitted sample. Though, the report suggested that the sample is in connection with Kochadhaman P.S. Case No. 93 of 2016. Statement has been made in para-3 of the petition that petitioners have no criminal antecedent.

In view of the F.S.L. report, contraband has not been found to be heroin, let the above named petitioners, be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, N.D.P.S., Kishanganj in connection with Special Case No. 05 of 2016, arising out of Kochadhaman P.S. Case No. 93 of 2016.

Let, the office reseal the F.S.L. report and remit back to the office of the Director Forensic Science Laboratory.

(Dinesh Kumar Singh, J)

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