

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11384 of 2016

Arising Out of PS.Case No. -13 Year- 2015 Thana -GOVERNMENT OFFICIAL COMP. District-
PATNA

- =====
1. Chandan Rai Son of Sri Ramanandan Rai Resident of Village + Post - Bishunpur, P.S. - Goraul, District - Vaishali (Bihar).
 2. Arjun Paswan @ Arjun Kumar Rai Son of Late Ramnath Rai Resident of Village + Post - Bishunpur, P.S. - Goraul, District - Vaishali (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar through Economic Offence Deptt., Bihar, Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Aaruni Singh

For the Opposite Party/s : Mr. Mr.V N P Sinha (For Eou)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

- 2 09-03-2016 Heard learned counsels for the petitioners and the State.
- The petitioners are languishing in custody since 18.7.2015 in a case registered for the offences punishable under Sections 20,25 and 29 of the NDPS Act.
- The prosecution case is that the complainant Ramanand Choudhary, an officer of the Directorate of Revenue Intelligence, Patna received an information with regard to trafficking of ganja when a Tata 407 vehicle bearing registration number BR -31 – 5751 was intercepted at Mahatma Gandhi Setu on 18.7.2015 at 1.30 A.M. Two persons, namely, Chandan Rai, driver of the vehicle and Arjun Paswan alias Arjun Kumar Rai, cleaner, were

apprehended. Both are petitioners before this court. The vehicle was taken to Regional unit of D.R.I., Arya Samaj Mandir Road, RPS More, Bailey Road, Danapur, Patna. Seizure list was prepared when 242.20 Kilograms of ganja were recovered.

It is submitted by the learned senior counsel for the petitioner that there is nothing on record to suggest as how the informant got information about the trafficking of ganja. There is no reason for preparing the seizure list with such delay as the truck was intercepted at 1.30 A.M. on 18.7.2015 when the seizure list was prepared at 9 A.M. on the same day, though the distance of Regional unit of D.R.I., Arya Samaj Mandir Road, RPS More, Bailey Road, Danapur, Patna from Mahatma Gandhi Setu is hardly few kilometers. No independent witnesses have supported the search and as such, the whole seizure appears to have been a cooked up story. The procedures under sections 42 and 50 of the NDPS Act have not been followed and the confession before the informant being an officer of D.R.I. has no meaning. The petitioners had no knowledge about the ganja loaded. It is further submitted that NDPS Act being a stringent Act hence the procedural safeguards have to be followed meticulously, hence the whole seizure got vitiated.

Learned counsel for the Economic Offences Department

submits that the seizure of commercial quantity of ganja has been made and the seizure list bears the signature of the petitioners being driver and cleaner of the truck in question.

Considering the seizure of commercial quantity of ganja from the vehicle of the petitioners who are driver and cleaner, this court is not inclined to grant bail to the petitioner in connection with Special Case No. 15 of 2015 pending in the court of learned Sessions Judge, Patna.

This application is, accordingly, dismissed.

(Dinesh Kumar Singh, J)

Anil/-

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