

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12619 of 2016

Arising Out of PS.Case No. -494 Year- 2015 Thana -DHANARUA District- PATNA

1. Lalan Prasad
2. Janardan Prasad@Janardhan Prasad Both sons of Siddeheshwar Prasad
Yadav R/o Village- Nizamat, PS Dhanarua, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajeev Kumar

For the Opposite Party/s : Mr. Md.Nazir Ansari (App)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 03-05-2016 Heard learned counsels for the petitioners and the
State.

The petitioners are languishing in custody since
09.12.2015 in a case registered for the offences punishable under
sections 20 and 22 of the NDPS Act.

From the shop of the petitioners 500 gms. of 'ganza'
along with 40 'ganza' plants in and around the house of the
petitioner were recovered.

It is submitted by learned counsel for the petitioners
that the recovery of 'ganza' is of small quantity. So far as plants
are concerned, it were straw plants grew in and around the house
of the petitioner and the straw plant does not come within the
purview of cultivation. Sections 20 (a)(i) of the NDPS Act

stipulates punishment for cultivation of cannabis plant but cultivation has not been defined under the Act. Hence, group of straw cannabis plant does not come within the preview of cultivation. A statement has been made in paragraph 3 of the petition that the petitioners have no criminal antecedent. It is further submitted that the seized plants have never been sent for the chemical examination and above all the investigation has already concluded.

Considering the nature of recovery, investigation has already been concluded coupled with a statement made in paragraph 3 of the petition that the petitioners have no criminal antecedent, let the above named petitioners be released on bail, on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II, Patna, in connection with Special Case No. 46/2015 arising out of Dhanarua P.S. Case No.494/2015.

(Dinesh Kumar Singh, J)

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