

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51418 of 2017

Arising Out of PS. Case No.-51 Year-2016 Thana- GOVERNMENT OFFICIAL COMP.
District- Muzaffarpur

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1. Sadhu Singh, S/o Harnaam Singh, R/o Village- Budhanpur, P.S.- Milak Khanam, Tehsil, Swar, District- Rampur U.P..
 2. Kabul Singh, S/o Jagir Singh, R/o Village- Gajupura, P.S.- Milak Khanam, Tehsil Swar, District- Rampur U.P..

... .. Petitioner/s

Versus

The Union Of India Through The Director, Revenue Intelligence Directorate,
Bihar, Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Birendra Kumar Singh
For the Opposite Party/s :	Mr.S.D Sanjay Addl. Soc. Gen. Mr. Manoj Kumar Singh, CGC

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

10 24-07-2019 Heard learned counsel for the petitioners and learned
counsel for Union of India.

The petitioners are apprehending their arrest in a case registered for the offences punishable under Sections 20(b), 25 and 29 of NDPS Act.

The prosecution case as per the written report of Pradeep Kumar Pandey, Intelligence Officer, DRI, Patna submitted in the Court of the District & Sessions Judge, Muzaffarpur is to the effect that the informant on 19.01.2016 received an information regarding a huge consignment of ganja being transported through a truck bearing Registration No. UP-



22T-5311 from Assam to Muzaffarpur. After having received such information, DRI intercepted a truck on Muzaffarpur-Darbhangra Highway and apprehended two persons namely, Naubat Ram being driver and Bhikhan Singh being Cleaner of the truck in question, thereafter, search was made and in 30 sachets containing 448.40 kgs. Ganja were recovered.

It is submitted by learned counsel for the petitioner that admittedly the petitioners were not travelling on the truck in question. Initially the truck was registered in the name of petitioner no. 2, Kabul Singh but subsequently, he sold it to Sadhu Singh, petitioner no. 1 and on the date of seizure, the truck was registered in the name of Sadhu Singh, the petitioner no. 1, hence, petitioner no. 2 cannot held responsible, only on the basis of statement of driver and cleaner of the truck in question, hence, the recovery cannot be treated from petitioner no. 2. So far petitioner no. 1 Sadhu Singh is concerned, he was also not aware about the ganja being carried by the driver and cleaner of the truck in question and recovery cannot be treated from conscious physical possession of the possession of petitioner no. 1, Sadhu Singh. A statement has been made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent.



Mr. Manoj Kumar Singh, learned counsel for the DRA submits that both the apprehended driver and cleaner admitted this fact that the ganja was loaded at the behest of petitioner no. 2, Kabul Singh and application for release of the truck was made by petitioner no. 1, Sadhu Singh but ever since they came to know that cognizance has been taken against them also and trial of co-accused is going on, they chose not to appear or press for release of the vehicle before the trial Court and ultimately, both the driver and cleaner of the alleged truck were put on trial and now they have been convicted for the charge under Sections 20(b)(ii) (C) and 25 of NDPS Act and sentenced to undergo R.I. for 12 years and fine of Rs.1,50,000/- on each count and in default of payment of fine, they have further been directed to undergo R.I. for one and half years on each count by learned 1st Additional District & Sessions Judge, Muzaffarpur vide judgment and order dated 21.07.2018 and 24.07.2018 respectively passed in Trial No. 06 of 2018, arising out of DRI Case No. 51 of 2016.

Considering the commercial quantity of recovery of ganja and the fact that neither the petitioners appeared before the enquiry agency, i.e., D.R.I. nor before the learned Court below during trial of co-accused, this Court is not inclined to



grant anticipatory bail to the petitioners in connection with DRI (NDPS) Case No. 51 of 2016, pending in the Court of learned 8th Additional Sessions Judge -cum- Special Judge, NDPS Act, Muzaffarpur.

Accordingly, the prayer for anticipatory bail of the petitioners is rejected.

(Dinesh Kumar Singh, J)

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