

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50655 of 2019

Arising Out of PS. Case No.-78 Year-2019 Thana- AMAS District- Gaya

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1. SHANKAR KUMAR YADAV Son of Mushan Yadav Resident of Village - Addouriya, P.S.- Manatu, District- Palamu (Jharkhand)
 2. Jitendra Kumar Son of Ganesh Yadav Resident of Village - Addouriya, P.S.- Manatu, District- Palamu (Jharkhand)

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Jain, Advocate

For the Opposite Party/s : Ms.Asha Devi

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 20-11-2019 Heard the learned counsel for the petitioners and the State.

The petitioners seek bail in connection with Amas P.S. Case No. 78 of 2019 dated 31.03.2019 instituted for the offence under Sections 3, 17(C)/18(C) of the Narcotic Drugs and Psychotropic Act.

From the accusation levelled in the FIR, it appears that on secret information a vehicle being plied from Gaya to Aurangabad was intercepted and from the rooftop of the vehicle, two persons were arrested with a bag containing 20 Kgs. of poppy straw. The petitioners were the persons who were arrested for being in possession of such narcotic substance.

Mr. Jain, learned counsel for the petitioners has



submitted that there is nothing in the FIR to indicate with clarity that the petitioners were the owners of the seized commodity or it was seized from their possession. Somebody had kept the bag on the rooftop but the petitioners have been arrested on mistaken identity.

In support of the aforesaid contention, it has been submitted that the petitioners have clean antecedents and the petitioner no. 2 is a student.

Apart from this, it has been further averred that the necessary requirements under Sections 40 and 42 of the NDPS Act and the Standing Orders No. 1 of 87-88 have not been complied with. There has been no sampling at the time of seizure.

Learned counsel for the petitioners has further indicated that the weight of the poppy straw would not be taken to mean that it is the weight of the narcotic substance. In the absence of any dried fruit of the poppy and only the husk, the same cannot be converted into any narcotic substance.

Considering the breach of the provisions of Sections 40 and 42 of the NDPS Act and the Sanding Orders in that regard, the clean antecedents of the petitioners and their period of custody which is from 01.04.2019, they are directed to be released on bail on their furnishing bail bonds in the sum of Rs. 10,000/-



(Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Sessions Judge, Gaya in connection with Amas P.S. Case No. 78 of 2019.

(Ashutosh Kumar, J)

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