

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12619 of 2020

Arising Out of PS. Case No.-554 Year-2019 Thana- PIRBAHOR District- Patna

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1. SHIVAM KUMAR S/o Nandlal Mishra R/o Noori Maszid, Renter in the house of Khalid Hussain, P.S.- Pirbahore, Distt- Patna.
 2. Ashok Thakur S/o Late Jamun Thakur R/o Purab Sarai, P.S.- Kotwali, Distt- Munger at present R/o Sweet heart lane, P.S.- Kadamkuan, Distt- Patna.
- Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rina Sinha

For the Opposite Party/s : Mr.J.N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 03-06-2020 Heard.

The matter has been taken up through virtual Court proceeding.

The petitioners are languishing in jail since 23.10.2019 in a case registered for the offences punishable under Sections 20 and 22 of the NDPS Act.

The prosecution case, as per the written report of SI Barun Kumar Singh of Pirbahore Police Station submitted to the SHO, Pirbahore Police Station, is to the effect that on 22/23.10.2019 at 9.00 A.M. the informant received a secret information that in Sharif Colony, Baripath, smack



(Morphine) is being sold. Consequently, raid was laid when five persons including the petitioners were apprehended. It is alleged that from the possession of petitioner no. 1, 28 gram and from possession of petitioner no. 2, 13.05 gram smack were recovered.

It is submitted by learned counsel for the petitioners that the weight of the seized smack has not been recorded appropriately as the weight of the sachets has also been included while weighing the seized smack. Statement has been made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent. The investigation has already been concluded. Moreover, the recovery from both the petitioners is between small quantity and commercial quantity.

Learned APP submits that the recovery of smack has been made from possession of both the petitioners and they were involved in trade of contraband which gets reflected from the accusation narrated in the FIR.

Considering the fact that the recovery of smack is between small quantity and commercial quantity, statement made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent and the investigation has



already been concluded coupled with the period in custody. let the petitioners above named be released on bail, for the present, provisionally for a period of three months on furnishing one surety each to the satisfaction of the learned Additional District and Sessions Judge IV, Patna in connection with Special Case No. 146 of 2019 arising out of Pirbahore P.S. Case No. 554 of 2019.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailors of the petitioners which may be transmitted by such surety to the learned Court concerned through e-Mode.

The provisional bail of the petitioners will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge IV, Patna in connection with Special Case No. 146 of 2019 arising out of Pirbahore P.S. Case No. 554 of 2019 including one surety each given at the time of provisional bail.



The learned Court below will be at liberty to further extend the period of provisional bail if the lock down is not over in three months.

(Dinesh Kumar Singh, J)

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