

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20254 of 2020

Arising Out of PS. Case No.-441 Year-2019 Thana- UDWANTNAGAR District- Bhojpur

1. DIPAK KUMAR S/o Ashok Kumar Yadav Resident of Village- Ganghar,
P.S.- Ara (Muffasil), Distt- Bhojpur.
2. Pradip Kumar Yadav S/o Ashok Kumar Yadav Resident of Village- Ganghar,
P.S.- Ara (Muffasil), Distt- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajeev Kumar

For the Opposite Party/s : Mr.Suresh Prasad Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

4 10-09-2020 The court proceeding has been conducted through
virtual mode.

Since the court proceeding is not functional in
physical mode, due to present Pandemic, Covid -19, the present
case has been listed with defects.

Learned counsel for the petitioner undertakes to
remove the defect(s) within a period of four weeks of
resumption of court proceeding in physical mode.



If the defect(s) is not removed within the undertaken period, the office will place the matter again.

Heard learned counsel for the petitioners and the State.

The petitioners are languishing in custody since 08.11.2019, in a case registered for the offences punishable under Sections 8, 20(b)(ii)(c) and 29 of the NDPS Act.

The prosecution case, as per the self statement of Manish Kumar, S.I.-cum-S.H.O., Gajrajganj O.P. Police Station recorded on 08.11.2019 at about 12.30 P.M. is to the effect that on the same day at about 6.15 A.M., the informant received a confidential information that that ganja has been brought from Orissa. Consequently, sanha diary entry was made and raid was laid when near Krisath Village, the police found that from one white coloured Innova vehicle, certain persons are unloading plastic bags and the petitioners were arrested, though, other accused persons managed to flee away and from the possession of the petitioner no.1, a mobile phone was recovered, though nothing has been recovered from the possession of the petitioner no.2 and from the alleged car, total 160 kg of ganja were recovered.

Learned counsel for the petitioners submits that



only on the basis of suspicion, the petitioners have been arrested from the spot and no recovery of contraband has been made from the conscious physical possession of the petitioners. A supplementary affidavit has been filed to the effect that the petitioners are neither the driver nor the owner of the alleged vehicle. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent. Moreover, the investigation has already been concluded and in the present situation, created due to pandemic, Covid-19, since the court proceeding is not functional in physical mode, there is no likelihood of trial being concluded in near future.

Learned APP for the State submits that the petitioners were apprehended from the place of seizure.

Considering the fact that no recovery has been made from the conscious physical possession of the petitioners, petitioners having no concern with the vehicle in question, period under custody, the investigation has already been concluded and the trial is not likely to be concluded due to the pandemic, Covid-19 coupled with statement made in paragraph no.3 of the petition to the effect that the petitioners are not having any criminal antecedent, let the petitioners above named



be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned Sessions Judge, Bhojpur, Ara, in connection with NDPS Case No. 21 of 2019, arising out of Udwant Nagar (Gajrajganj O.P.) P.S. Case No. 441 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 bailor of the petitioners which may be transmitted by such surety on photo copy of his Aadhar Card to the effect that he is ready to become the bailor 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 including one surety given at the time of provisional bail of the like amount each to the satisfaction of learned NDPS Case No. 21 of 2019, arising out of Udwant Nagar (Gajrajganj O.P.) P.S. Case No. 441 of 2019.

The learned Court below will be at liberty to extend



the period of provisional bail further if the court proceeding in physical mode will not resume in next three months.

Accordingly, the present application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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