

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24935 of 2020

Arising Out of PS. Case No.-233 Year-2019 Thana- SIDHWALIYA District- Gopalganj

1. Madan Sah, aged about 60 years, Male, S/o Baldev Sah, Resident of Village- Vishunpura, P.S.- Sidhwalia, District- Gopalganj.
2. Kamlesh Sah @ Kamlesh Kr. Sah, aged about 28 years, Male, S/o Madan Sah, Resident of Village- Vishunpura, P.S.- Sidhwalia, District- Gopalganj.
3. Ambika Mahto, aged about 36 years, Male, S/o Late Khalifa Mahto, Resident of Village- Vishunpura, P.S.- Sidhwalia, District- Gopalganj.

... .. Petitioners

Versus

1. The Union Of India through Directorate Of Revenue Intelligence, Muzaffarpur.
2. The State of Bihar.

... .. Opposite Parties

Appearance :

For the Petitioners	:	Mr. Satyendra Rai, Advocate.
For the U.O.I.	:	Mr. K.N. Singh, Addl. S.G. and Mr. Rabindra Sharma, C.G.C.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 15-10-2020 Due to COVID-19 Pandemic, the matter is being taken up by way of virtual Court proceeding.

The matter has been listed under the heading ‘For Orders’ under the orders of Hon’ble the Chief Justice.

Learned counsel for the petitioners are directed to remove the defects, as pointed out by the office, within a period of four weeks after restoration of normalcy.

Heard learned counsel for the petitioners, learned Addl. S.G. for the Union of India and learned A.P.P. for the State.



The petitioners are apprehending their arrest in a case for the offences registered under Sections 434/34 of the I.P.C. and 8 (c), 20(b)(ii)(B) 22 of the N.D.P.S. Act.

The prosecution case, in short, is that on 07.12.2019 at about 7.15 P.M., during the course of evening patrolling and vehicle checking at Canal Bridge near Bishunpura Bazar, the informant S.I. alongwith police force saw coming three persons on two Motorcycles carrying Plastic bags and on signal to stop the Motorcycle by police force, all the three persons started fleeing away leaving the Motorcycles and Plastic bags and on chase by police force, they succeeded in fleeing away taking advantage of night. Thereafter, when asked from the *Mahal Chowkidar*, villagers, who were assembled there, disclosed their identity as petitioners, but the villagers became not ready to make independent witness in search and seizure and C.O. Barauli was also not available due to PACCS Election. Thereafter, in presence of *Chowkidar*, Umesh Kumar Yadav, and Ashok Kumar Yadav, a search was made of the said Motorcycles and 10 Kg. Ganja kept in Plastic bag was recovered from Passion-pro Motorcycle being Registration No. BR-04H/7843 and 09 Kg. Ganja was recovered from Super Splender Motorcycle bearing Registration No. AS-23E/2747



and accordingly, a seizure list thereof, was prepared.

It has been submitted on behalf of the petitioners that the petitioners have got no criminal antecedent. They have falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against the petitioners. The name of the petitioners has transpired in the present case on the basis of disclosure made by local *Chowkidar* and local Villagers. The names of the local villagers have not been disclosed by the prosecution. Total 19 Kg. of Ganja is said to have been recovered from two Motorcycles which were standing by the side of the Road. The same is below the commercial quantity. Hence, Section 37 of the N.D.P.S. Act is not applicable in the present case. There is no compliance of Sections 42 and 50 of the N.D.P.S. Act. The petitioners had no knowledge regarding the alleged incident. There is no recovery of any contraband from conscious possession of the petitioners.

On behalf of the U.O.I. and the State, it is submitted that the petitioners are named in the F.I.R.

Considering the aforesaid facts and circumstances of the case, the petitioners, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on



furnishing bail bonds of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-Ist, Gopalganj, in connection with Sidhwalia P.S. Case No. 233 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sudhir Singh, J)

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