

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.23385 of 2021**

Arising Out of PS. Case No.-11 Year-2021 Thana- BUXAR District- Buxar

-
-
1. SEEMA DEVI W/O OM PRAKASH SINGH Resident of Village - Shanti nagar, Ward No.34, P.S.- Buxar (T), Distt.- Buxar (Bihar)
 2. MAMTA DEVI D/o Late Jhuna Singh Resident of Village - Shanti nagar, Ward No.34, P.S.- Buxar (T), Distt.- Buxar (Bihar)

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Arun Kumar Gupta, Advocate

For the Opposite Party/s : Mr.Arun Kumar Singh No. 5, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 27-08-2021 Learned counsel for the petitioners undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioners and Mr. Arun Kumar Singh No. 5, learned APP for the State.

The petitioners in the present case are seeking regular bail in connection with N.D.P.S. Case No. 01 of 2021 arising out of Buxar (Town) P.S. Case No. 11 of 2021 registered for the offence punishable under Sections 20(b)(ii)(c), 22, 25, 27(A), 29 of N.D.P.S Act. They are in custody since 06.01.2021. The petitioners have no criminal antecedent.

As per the prosecution story, the petitioners were arrested when petitioner no. 1 was carrying 43 pudiyas (packets)

of heroin, the total weight of the same being 12 gms and a sum of Rs. 1390/- and petitioner no. 2 was carrying 33 pudiyas of heroin like substance of which the total weight was 8 gms. and a sum of Rs. 800/-. On the basis of their statement house of one Sanjay Rawat was raided and from his possession 50 gms of heroin like substance and a sum of Rs. 90,400/- has been recovered. The petitioners disclosed that the said Sanjay Rawat was giving them the Pudiyas for selling the same.

Learned counsel submits that the quantity of the alleged substance heroin recovered from each of the two petitioners is much less than the commercial quantity and Section 27A of the N.D.P.S. Act would not be attracted on the face of the allegations made in the FIR against these petitioners.

Learned APP for the State has opposed the prayer for bail of the petitioners but it is not disputed that the quantity of the alleged recovery is less than the commercial quantity.

Considering the facts and circumstances of the case and the submissions noted hereinabove in which the Bar of Section 37A of the N.D.P.S. Act shall not be attracted, the petitioners have remained in jail for about 8 months and they have otherwise no criminal antecedent, hence, this Court directs release of the petitioners above named on bail on furnishing of

bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with two sureties of the like amount each to the satisfaction of learned District Judge-cum-Special Court, N.D.P.S. Act, Buxar in connection with N.D.P.S. Case No. 01 of 2021 arising out of Buxar (Town) P.S. Case No. 11 of 2021, subject to the conditions as laid down under Section 437(3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

SUSHMA2/-

U		T	
---	--	---	--

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.