

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22908 of 2021

Arising Out of PS. Case No.-384 Year-2020 Thana- MINAPUR District- Muzaffarpur

1. Deepak Kumar Son of Suresh Sahni Resident of Village - Barabharti, P.S. - Minapur, District - Muzaffarpur.
2. Vishal Kumar Son of Ajay Sahni Resident of Village - Barabharti, P.S. - Minapur, District - Muzaffarpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. P. K. Shahi, Sr. Advocate
	:	Mr. Pranav Kumar, Advocate
For the Opposite Party/s	:	Mr. Mrityunjay Kumar Nirala, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 17-01-2022 Heard Shri P. K. Shahi, learned senior counsel for the petitioners and Shri Mrityunjay Kumar Nirala, learned A.P.P. for the State through virtual court proceedings.

The petitioners seek bail in connection with Minapur P.S. Case No. 384 of 2020 instituted for the offences under Sections 414, 420, 467, 468, 471 and 34 of the Indian Penal Code read with Sections 25(1-b)a, 26 and 35 of the Arms Act and Sections 20, 22 and 8 of the N.D.P.S. Act.

Learned counsel for the petitioners submits that the petitioners are in custody since 01.10.2020 and have criminal antecedents as mentioned in paragraph '3' of the bail application and it is the reason based on which they came to be implicated



in the present case.

The report from the F.S.L. has been received and from perusal of the same it manifests that total recovered narcotic was 1.6 grams. Learned senior counsel for the petitioners submits that admittedly the recovery is less than small quantity. It is further submitted that as far as allegation of Arms Act is concerned, the petitioners came to be roped in only with a view to tame them because of their antecedents.

By order dated 13.12.2021, the S.S.P., Muzaffarpur was directed to file a supplementary counter affidavit stating that what was the weight of the narcotics which was alleged to be recovered as neither the F.I.R. nor the seizure-list disclosed the weight of the narcotics and also the counter-affidavit filed by him was completely silent on this issue.

Learned A.P.P. for the State, Shri Mrityunjay Kumar Nirala vehemently opposes the prayer for bail of the petitioners and submits that in compliance of the order dated 13.12.2021, he has received statement of facts two days ago and the statement of facts also does not disclose the weight of the narcotic rather records the weight of the narcotic as has been submitted in the F.S.L. report. Learned A.P.P. further submits that he had informed the S.S.P., Muzaffarpur with regard to the



order dated 13.12.2021, immediately but then also the statement of fact was not sent in time, as such the supplementary counter-affidavit could not be filed.

It appears that the S.S.P., Muzaffarpur has scant regards for the orders of the Court as the statement of fact which has been received by the learned A.P.P. records that the weight of the narcotics was not done as the police was not sure whether the alleged seized material was narcotics or not, this amply demonstrates the conduct of the S.S.P., Muzaffarpur that how he handles cases relating to N.D.P.S. Act, perhaps he does not realise that the law relating to N.D.P.S. is very stringent and any arrest under the Act has to be done in accordance with law, further it gives an impression to the Court that the S.S.P., Muzaffarpur was casual in his approach i.e. when he supervised the case even at that point of time the I.O. was not informed about the infirmity which he had committed while making search and seizure, it was the duty of the S.S.P, Muzaffarpur to ensure that if his sub-ordinates are not investigating the case in it's correct perspective then at least he at his level should have ensured to rectify the mistake which was committed. Since the weight of the narcotics was not recorded either in the F.I.R. or in the seizure-list that gave an impression to the Court that the



police was trying to help the accused.

Considering the fact that the petitioners are in custody since 01.10.2020, charge-sheet has been submitted in the case and the recovery of the narcotics is only 1.6 grams, let the petitioners above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge, N.D.P.S., Muzaffarpur in connection with Minapur P.S. Case No. 384 of 2020.

At this stage, learned senior counsel for the petitioners submits that the charges against the petitioners have been framed and the trial will commence. In the event, the petitioners does not appear in the trial on two consecutive dates, the Court below will be at liberty to cancel their bail bonds.

Let this order be sent to the S.S.P., Muzaffarpur for his perusal.

(Satyavrat Verma, J)

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