

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13687 of 2022

Arising Out of PS. Case No.-156 Year-2021 Thana- SURSAND District- Sitamarhi

1. MUNILAL RAI Son of Late Motilal Rai
2. Lalbabu Rai Son of Late Kishun Rai
3. Subodh Rai Son of Munilal Rai
4. Kalu Rai Son of Llbabu Rai

All are Resident of Chakmahmadpur Saidpur Kutupur (Kutubpur),
P.S.- Bidupur, District - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dr. Om Prakash Om, Advocate

For the Opposite Party/s : Mr. Syed Mojibur Rahman, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 19-09-2022 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners apprehend their arrest in a case
registered for the offences punishable under Sections 8, 20(b)(ii)
(c) and 22(B) of the NDPS Act.

Learned counsel for the petitioners submits that
petitioners are persons with clean antecedent.

The informant alleges that while he was on patrolling
duty with his team, he got a secret information about gathering
of miscreants at an abandoned brickkiln, accordingly, on
05.04.2021, at 02:15 a.m., the informant reached the place of
occurrence and saw some miscreants carrying white bag. It is



alleged that on seeing the police, some miscreants fled away but four were apprehended at the place of occurrence. It is further alleged that from the apprehended four accused 13 Kg. Ganja from each was recovered, as such, total 52 Kg. Ganja was recovered in toto. It is further alleged that on account of failure of the mobile network, the senior official could not be informed, as such, the search and seizure was made in presence of the independent witnesses.

Learned counsel for the petitioners submits that petitioners have been falsely implicated in the present case and their name has transpired in the confessional statement of apprehended accused. He further submits that the FIR also does not disclose that when the informant reached the place of occurrence how many accused he saw. He next submits that even presuming what has been alleged is true without admitting the same for the purposes of anticipatory bail then the alleged recovery from each of the accused is 13 Kg. which is more than small quantity but is less than commercial quantity. He also submits that since the petitioners were not arrested from the place of occurrence, as such, nothing was recovered from their conscious possession and apart from confession nothing has come during the course of investigation which could even



remotely connect the petitioners with the offence. Learned counsel further submits that the Hon'ble Supreme Court in the case of Tofan Singh Vs. State of Tamil Nadu reported in (2021)4SCC1 has held that confessional statement before the police in the case of NDPS is not admissible in evidence. He thus submits that apart from confession there is nothing to connect the petitioners with the offence.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners but is not able to meet the submission of the learned counsel for the petitioners that name of the petitioners transpired in the confessional statement of apprehended accused.

Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty-five Thousand) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Sursand P.S. (Bhitha O.P.) Case No. 156 of 2021, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.



Further if the police after investigation submits charge-sheet against the petitioner then the present anticipatory bail order shall lose its effect.

(Satyavrat Verma, J)

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