

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68238 of 2021

Arising Out of PS. Case No.-255 Year-2021 Thana- SAHPUR District- Bhojpur

Sunil Yadav @ Sushil Yadav, Son of jagdish Yadav Resident of Village -
Shahpur, P.S. - Shahpur, District - Bhojpur at Ara (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 12863 of 2022

Arising Out of PS. Case No.-255 Year-2021 Thana- SAHPUR District- Bhojpur

Santosh Paswan, Son of Badri Paswan Resident of Village and Post-
Kamariyao, P.S.- Tiyar, District- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 68238 of 2021)

For the Petitioner/s : Mr.Abhay Kumar Pandey, Advocate

For the Opposite Party/s : Mr.Yogendra Kumar, Spl. PP

(In CRIMINAL MISCELLANEOUS No. 12863 of 2022)

For the Petitioner/s : Mr.Ramanuj Tiwary, Advocate

Mr. Ramnaresh Choubey, Advocate

For the Opposite Party/s : Mr.Ramchandra Sahni, Spl. PP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL ORDER

4 20-09-2022 Since both the cases arise out of Shahpur P.S. Case

No. 255 of 2021 as such, they have been heard together and are

being disposed of by this common order.

Heard learned counsel for the petitioners and learned

APP for the State.

Let the defect (s), as pointed out by the office, be



removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioners seek bail in connection with NDSL Case No. 05 of 2021 arising out of Shahpur P.S. Case No. 255 of 2021 registered for the alleged offences under Sections 20 and 22 of the Narcotic Drugs and Psychotropic Substances Act.

As per prosecution case, the police received secret information about sale of psychotropic substance by the petitioners and co-accused persons. A raid was conducted and from the house of the petitioner Santosh Paswan, two persons tried to flee away from and one of them was apprehended who disclosed his name as Sushil Yadav, the petitioner herein and from his possession recovery of 14.5 gm and 4.5 gm of black coloured and white coloured psychotropic substances, respectively were made. The recovered articles were stated to be heroin. Further, 4.6 gm of heroin was recovered from 19 *purias* kept on *chowki*. The electronic weighing machine was also seized from the house of the petitioner. The petitioner Sushil Yadav accepted that he and other accused persons were involved in selling the contraband.

Learned counsel for the petitioner Sushil Yadav



submits that petitioner is innocent and has been falsely implicated in this case. The house from where the contraband is stated to be recovered does not belong to this petitioner. He further submits that the seizure list contains the F.I.R. number at the top and it shows that it was prepared after registration of F.I.R. and was not prepared at the spot. It is submitted on behalf of the petitioner that the seized quantity of contraband does not come in the purview of commercial quantity and the petitioner Shushil Yadav is in custody since 31.08.2021. The petitioner has got no criminal antecedent.

Learned counsel for the petitioner Santosh Paswan submits that he was not apprehended from the spot and nothing incriminating has been recovered from his conscious possession. He has been falsely implicated in this case as he has not been residing at the place from where the recovery is stated to be made. The seizure list has not been prepared following the statutory provisions of law. There is no report of F.S.L. to show that the seized contraband is a particular drug or psychotropic substance. This petitioner is in custody since 02.12.2021. The petitioner has got no criminal antecedent.

Learned Special Public Prosecutor opposes the prayer for bail of the petitioners submitting that recovery has been



made from petitioner Sushil Yadav and the same is more than the small quantity. The weighing machine was also seized from the place of the recovery. This shows that the petitioner used to sell the contraband. He, however, concedes that there is no F.S.L report on record.

Having regard to the submission made on behalf of the parties and considering the period of custody of the petitioners and submission of charge sheet along with their clean antecedent, the petitioners above named are directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Sessions Judge, Bhojpur at Ara, in connection with NDSL Case No. 05 of 2021, P.S. Case No. 255 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close relative of the petitioners.
- (ii) The petitioners will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three



consecutive dates or in violation of the
terms of the bail, the bail bond of the
petitioners will be liable to be cancelled
by the court concerned.

(Arun Kumar Jha, J)

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