

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15305 of 2022

Arising Out of PS. Case No.-520 Year-2021 Thana- SIWAN MUFFASIL District- Siwan

Soyeb Akhtar S/O Mohammad Yasin R/o village- Maksudpur, P.S.- Uchka
Gawn, District- Gopalganj

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

with

CRIMINAL MISCELLANEOUS No. 18874 of 2022

Arising Out of PS. Case No.-520 Year-2021 Thana- SIWAN MUFFASIL District- Siwan

Sahabuddin Ansari Son of Mahammad Yasin Resident of Village- Maksudpur,
P.S.- Uchka Gawn, District- Gopalganj.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

(In CRIMINAL MISCELLANEOUS No. 15305 of 2022)

For the Petitioner/s : Mr. Binay Kumar, Advocate.

For the Opposite Party/s : Mr. Ram Sevak Choudhary, APP.

(In CRIMINAL MISCELLANEOUS No. 18874 of 2022)

For the Petitioner/s : Mr. Binay Kumar, Advocate.

For the Opposite Party/s : Mr. Ram Sevak Choudhary, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 07-07-2022 Since, both the applications arise from the same P.S.

Case No., they are taken up together and disposed of by a

common order.

Heard learned counsel for the petitioners and learned

Additional Public Prosecutor for the State.

Petitioners seek bail in connection with Siwan

Muffasil Mahadeva O.P. P.S. Case No. 520 of 2021 arising out of N.D.P.S. Trail No. 06 of 2021 lodged under Sections 20 and 22 of N.D.P.S. Act.

As per the prosecution, total 9.5 kg *ganja* have been recovered from the possession of the petitioners along with other materials which are not N.D.P.S. character.

Learned counsel for the petitioners submit that 9.5 kg *ganja* was recovered from a bag which was kept on motorcycle on which the above name two petitioners were moving. He further submits that according to the notification, the small quantity of ganja is 1000gm. and commercial quantity of ganja is 20 kg whereas, in the present case, the recovery of 9.5 kg. of ganja was made. He further submits that there is a restriction casted under Section 37 of the N.D.P.S. Act that any accused persons who has alleged to commit an offence either under Section 19 or Section 24 or Section 27A or offences involving commercial quantity of N.D.P.S. material shall not be released on bail but here in the present case, the present petitioners are not coming in anyone categories and therefore, their bail applications may be sympathetically considered that they have no criminal antecedent and they are in custody since 21.10.2021. Learned counsel for the petitioners also submits

that charge has already been framed in this case because trial no. has been given to this case.

Learned counsel for the State opposes the prayer for bail and submits that if bail shall be granted then petitioners shall abscond and trial could not be concluded.

Considering the facts and circumstances of the case that recovery is less than the commercial quantity, petitioners are in custody since 21.10.2021 having no criminal antecedent and charge has already been framed in this case, let the above named petitioners are directed to be released on bail on furnishing bail bonds of Rs.1,00,000/- (one lac) each with two sureteis of the like amount each to the satisfaction of learned 1st Additional Sessions Judge Cum Special Judge Siwan, in connection with Siwan Muffasil Mahadeva O.P. P.S. Case No. 520 of 2021 arising out of N.D.P.S. Trail No. 06 of 2022 subject to the conditions as laid down under Section 437(3) of Cr.P.C..

The petitioners are directed to appear on each and every date before the Trial Court, in case of non-appearance for two consecutive dates, shall resulted into cancellation of their bail bonds. If they shall involve in such type of activities again, the prosecution shall be at liberty to move for cancellation of their bail bonds.

With the aforesaid observations, the bail applications
stand allowed.

(Dr. Anshuman, J)

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