

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71561 of 2021

Arising Out of PS. Case No.-670 Year-2021 Thana- KANTI District- Muzaffarpur

Rajesh Kumar @ Raja Son of Raj Kumar Jha Resident of village - Kanti
Station Tola Ward No.- 4, P.S.- Kanti, District - Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 21648 of 2022

Arising Out of PS. Case No.-670 Year-2021 Thana- KANTI District- Muzaffarpur

Ramu Thakur @ Sittu Thakur son of Brajmohan Thakur R/o village- Kisun
nagar, Ward No.-2, P.S.- Kanti, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 71561 of 2021)

For the Petitioner/s : Ms. Vaishnavi Singh, Advocate

For the Opposite Party/s : Mr. Binod Kumar No.3, APP

(In CRIMINAL MISCELLANEOUS No. 21648 of 2022)

For the Petitioner/s : Mr. Hari Kishore Thakur

For the Opposite Party/s : Mr. Arun Kumar Singh

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

7 28-09-2022 As both the criminal miscellaneous petitions have arisen out of the same P.S. case, hence both the petitions are being decided together by a common order.

The learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.



Heard learned counsels for the petitioners and the learned APPs for the State.

Petitioners seek regular bail in connection with Kanti P.S. Case No. 670 of 2021 registered for the offences punishable under Sections 115, 399, 400 and 402 of the Indian Penal Code, Sections 25 (1-B) a, 26 and 35 of the Arms Act and Sections 8(c), 21(b) of the Narcotic Drugs and Psychotropic Substance Act.

As per the allegation, acting upon a secret information police reached at the alleged place where the accused persons including the petitioners had assembled and thereafter the police surrounded them and apprehended five accused persons including the petitioners and from the possession of both the petitioners narcotic materials suspected to be smack and loaded country-made pistols were recovered and from the possession of other co-accused persons fire-arms and narcotic materials suspected to be smack and morphine were recovered.

The main submissions advanced by learned Counsel Ms. Vaishnavi Singh appearing for the petitioner Mr. Rajesh Kumar @ Raja are that the alleged seized narcotic material which was suspected to be smack and alleged to have been recovered from possession of this petitioner comes under the



purview of less than commercial quantity and against this petitioner there was criminal antecedent of two cases at the time of institution of the instant case in which he was on bail and after his arrest in the present matter he was remanded in an other case in which he has also got bail. Further submission is that the FIR does not disclose any sampling having been made by the police from the alleged recovered contraband, hence in the present case there is serious doubt in the prosecution's allegation as well as FSL report and moreover against the petitioner the investigation has been completed and he has been languishing in jail since 26.10.2021 and one co-accused namely Avinash Kumar Pandey has been granted bail by the Court below.

Learned counsel Mr. Hari Kishore Thakur, appearing for the petitioner Ramu Thakur @ Sittu Thakur submits that the petitioner has been languishing in jail since 26.10.2021 and the alleged contraband which is said to have been recovered from the possession of this petitioner also comes under the purview of lesser than commercial quantity and at the time of institution of the present case the petitioner was having clean antecedent but after his arrest in this case he was remanded in an other case.

Learned APPs appearing for the State have opposed



the bail prayer.

Heard both the sides and perused the FIR and Case diary. The alleged recovered Narcotic materials which is said to have been seized from the possession of both the petitioners come under the purview of lesser than commercial quantity and seizure list goes to show that the witnesses of the recovery are police personnel and there is no details of the sampling from the alleged recovered contraband in the FIR and the said fact goes in favour of the defence taken by the petitioners and moreover the investigation has been completed. Considering these facts and mainly taking into account the custody period of the petitioners in the opinion of this court a lenient approach can be taken in respect of petitioners' prayer, let the petitioners be released on bail on furnishing bail bond of Rs. 10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of concerned Court in connection with Kanti P.S. Case No. 670 of 2021 on the following conditions:-

(1) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by



the Court below.

(2) If the petitioners tamper with the evidence or the witnesses, in that case the prosecution will be at liberty to move for cancellation of bail.

(3) One of the bailers shall be a close relative of the petitioners who has sworn affidavit in this miscellaneous petition.

(Shailendra Singh, J.)

siddharthkr/-

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

