

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22507 of 2022

Arising Out of PS. Case No.-852 Year-2021 Thana- SARAIYA District- Muzaffarpur

Khurshid Alam Son Of Late Okil Miya R/O Village- Sujaitpur, P.S.-
Govindganj, District- Motihari

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 22628 of 2022

Arising Out of PS. Case No.-852 Year-2021 Thana- SARAIYA District- Muzaffarpur

Sumit Kumar S/o Rambabu Prasad Resident of Village- Gaithaha, P.S.-
Harsidhi, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 22507 of 2022)

For the Petitioner/s : Mr.Ravi Ranjan

For the Opposite Party/s : Mr.Rabindra Kumar

(In CRIMINAL MISCELLANEOUS No. 22628 of 2022)

For the Petitioner/s : Mr.Ravi Ranjan

For the Opposite Party/s : Mr.Rabindra Kumar

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 05-08-2022 Since both the applications arise out of Saraiya P.S.

Case No. 852 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 through virtual court proceeding.

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 Saraiya P.S. Case No. 852 of 2021 registered for the alleged offences under Sections 414, 272, 273 and 34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act and Sections 20/ 22 of the N.D.P.S. Act and 25(1-b)a, 26 & 35 of the Arms Act.

As per prosecution case, during routine checking of vehicles, one alto car was intercepted and the petitioners Khurshid Alam and Sumit Kumar along with co-accused Sonu Kumar were apprehended from the car and two persons fled away from the car. On search of the petitioner, Khurshid Alam, one country made loaded pistol along with one live cartridge were recovered and from petitioner Sumit Kumar, one live cartridge was recovered. From the desk box of the car, 1 kg ganja was recovered apart from 2.160 liters of India made liquor which was recovered from the dicky of the car.

Learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. The petitioners have got no concern with the vehicle seized by the police and have nothing to do with the recovery of



ganja or the liquor which was made from the car. The petitioners were falsely implicated in this case by showing that fire arms and ammunition were recovered but no such recovery has been made from the petitioners. The petitioners were passing through the road and they were made accused by the police in its high handedness. Learned counsel further submits that statutory provisions of search and seizure have not been followed. The quantity of *ganja* comes under the category of small quantity and it was not recovered from the conscious possession of the petitioners. Charge sheet has been submitted in this case and the petitioners are in custody since 18.12.2021.

Learned APP opposes the prayer for bail of the petitioners.

Having regard to the submission made hereinabove, it is apparent from the FIR that recovery of psychotropic substance and illicit liquor has not been made from the conscious possession of the petitioners and two co-accused persons allegedly escaped from the vehicle and further considering the submission of charge sheet as well as period of custody of the petitioners, 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 Special Judge, Excise, Court No. 2, Muzaffarpur in connection with Saraiya P.S. Case No. 852 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) The bail bond of the petitioner will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be a close relative of the petitioners.
- (iii) The petitioners will remain present on each and every date fixed by the court below.
- (iv) 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)

Gautam/-

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

