

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33740 of 2021

Arising Out of PS. Case No.-27 Year-2021 Thana- JOGBANI District- Araria

1. MD ASFAK CHAND @ MD ASFAK CHAND @ MD ASFAK CHANDRA S/O LATE BADRUL HUSAN @ MD BADRUL @ BADRUL HASAN Resident of Mahadevgarh, P.S.- Mahua, District- Vaishali
2. RANBIR KUMAR SINGH S/O LATE LAXMAN SINGH R/o village- Dahzi Ramchandra, P.S.- Sarai, District- Vaishali

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anuj Kumar, Adv.

For the Opposite Party/s : Mr. Abahy Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 10-03-2022 Heard Mr. Anuj Kumar, learned counsel for the petitioners and Mr. Abahy Kumar, Additional Public Prosecutor for the State.

Petitioners seek regular bail in connection with Special Case No. 139/2021 arising out of Jogwani PS Case No. 27/2021 registered for the offence punishable under Sections 30(a) of Bihar Prohibition & Excise Act and Sections 27(ii) (b)/28 R/W 36 of Drugs and Cosmetic Act.

As per First Information Report, the police, while they were on patrolling duty, saw that two persons were going to the market with bags and upon seeing the police, they threw their bags and tried to flee away, however, they were arrested who disclosed their name as Md Asafak Chand @ Md Asfak Chand



@ Md Asfak Chandra and Ranbir Kumar Singh i.e., the petitioners and upon search of the bags of petitioners, the police recovered 100 bottles of 100 ML Dialex DC Syrup, 750 Tablets of Nitrovet 10, 248 vial of Diazelab injections of 2 ML from the bag of Md. Asafak Chand and 100 bottles of 100 ML Dialex DC Syrup, 750 Tablets of Nitrovet 10, 273 vial of Diazelab injections of 2 ML from the bag of Ranvir Kumar Singh.

Learned counsel for the petitioners submits that from perusal of the FIR, it would be evident that no excise goods have been recovered from the bags which were, allegedly, thrown away by the petitioners and insofar as the drugs which have been recovered, the police have charged the petitioners under Sections 27(ii) (b)/28 R/W 36 falling under Chapter-IV of the Drugs and Cosmetics Act ('the Act' for future reference).

Learned counsel referring to the Special Bench Judgment passed in the case of *Bablu v. State of Bihar* as reported in *2021(3) PLJR* submits that the police has got no power to institute prosecution and investigate offences under Chapter-IV of the Act and the present case has been instituted under Chapter-IV of the Act. He further submits that the Special Bench has also held that imported drugs and cosmetics are distributed or sold, or stocked, or exhibited, or offered for sale



they would be covered only by Chapter-IV of the Act.

Thus, the submission is that the petitioners have falsely been implicated in the present offence. They are in custody since 08.02.2021 having no criminal antecedents.

Regards being had to the submissions made by the parties and taking into consideration the material on record and the fact that the case has been instituted under Sections 27(ii) (b)/28 R/W 36 falling under Chapter-IV of the Act and further they, having no criminal antecedent, are in custody since 08.02.2021, I am inclined to grant regular bail to the petitioners.

Accordingly, let the petitioners, namely, MD ASFAK CHAND @ MD ASFAK CHAND @ MD ASFAK CHANDRA and RANBIR KUMAR SINGH be released on bail on furnishing bail bond of Rs. 25,000/- (Twenty Thousand) each with two sureties of the like amount each to the satisfaction of learned 2nd Additional Sessions Judge-cum-Special Judge, Excise, Arariya in connection with Special Case No. 139/2021 arising out of Jogwani PS Case No. 27/2021.

(Anil Kumar Sinha, J)

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