

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38248 of 2022

Arising Out of PS. Case No.-73 Year-2022 Thana- BARACHATTI District- Gaya

1. Chalitar Singh @ Chalitar Singh Bhogta S/o Prameshwar Singh Resident of Bumer, Tola Ambatari, P.S.- Barachatti, District- Gaya
2. Kamlesh Yadav S/o Munni Yadav Resident of Village- Bumer, P.S.- Barachatti, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Udbhav, Adv.

For the Opposite Party/s : Mr. Anand Mohan Prasad Mehta, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 22-11-2022 Let the defect(s), if any, be removed within two weeks
from today.

Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners seek regular bail in connection with
Barachatti P.S. Case No. 73 of 2022 lodged under Sections 8(b),
18, 29 of the N.D.P.S. Act.

As per the prosecution case, the F.I.R was filed by the
Official of Forest Department alleging therein that the Official
of NCB Forest and individual labour reached upon information
in the forest and found that the agriculture of opium is going on
in 4.40 acre of land in which 2.32 acre is private land and 2.08

acre of land is the protected forest. By the raid, the entire agriculture was destructed. It has been alleged that the said F.I.R. has been filed against 10 known accused persons alleging therein that they used to do agricultural work of opium.

Learned counsel for the petitioners submit that petitioners are innocent and have committed no offence. There is nothing on record which shows that petitioners are in possession of forest land. Learned counsel also submits that there is nothing on record which shows that petitioners are owner of the private land. Learned counsel categorically submits that petitioners are not owner of any private land as mentioned in the F.I.R. They are completely unaware that who are doing the agricultural work of the opium.

Learned counsel for the State opposes the prayer for bail and submits that from the F.I.R. itself it transpires that only name of accused persons are there but how they are committing the wrong is not clear. It is also not clear that to which of the accused persons, the said land belong. It is also not clear that from the said agricultural work, how much they used to produce and under what quantity, there is chances to be produced and therefore, request of this Court to call for a report from NCB official/ State official.

Considering this aspect that the stand of the petitioners are clear that they are in no case related to the land

which is subject to dispute here in the present case.

In the present facts and circumstances of this case and the submissions made above, let the petitioners above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-1-cum-Special Judge N.D.P.S. Act, Gaya in connection with Barachatti P.S. Case No. 73 of 2022 , subject to the conditions as laid down under Section 437(3) of Cr.P.C.

After submission of report that whether petitioners are owner of the land and under what quantity, they are going to produce the said NDPS material from the said land. The present case cannot be decided either this way or that way.

In this view of the matter, this application is **disposed off** with direction to the Trial Court that upon receiving a report from the NDPS official, decide these two issues mentioned above and then pass order in accordance with law either to confirm or to refuse the provisional bail of the petitioner.

(Dr. Anshuman, J.)

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