

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41335 of 2022

Arising Out of PS. Case No.-17 Year-2022 Thana- DHANGAI District- Gaya

1. Md. KAUSHAR MIYAN @ KAUSAR ALAM Son of Md. Serajuddin Resident of Village - Ward No.6, Gajragarh, P.S.- Barachatti, Distt.- Gaya.
2. Md. Serajuddin @ Serajuddin Miyan @ Charku Miya Son of Md. Mustaque Ahmad @ Chand Khan Resident of Village - Ward No.6, Gajragarh, P.S.- Barachatti, Distt.- Gaya.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Jubair Ansari, Advocate
For the Opposite Party/s : Mr. Dr. Indihar Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 12-12-2022 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 8(b), 18 and 29 of the N.D.P.S. Act.

Learned counsel for the petitioners submits that petitioner no. 1 has one antecedent and petitioner no. 2 has antecedent of four cases under the NDPS Act and the informant who is a Range Officer alleges that Opium was found planted on forest as well as private land and he came to know that petitioners were involved in the occurrence.

Learned counsel for the petitioners submits that petitioners have been falsely implicated in the present case, it is



next submitted that though it is alleged that opium was found planted on government land as well as private land, but the private land on which Opium was found planted does not belong to the petitioners and the same has been specifically pleaded at Para 7, it is next submitted that even the mode of implicating the petitioner no. 2 is similar in the sense that earlier also the same informant in the same manner had implicated the petitioner alleging that he was instrumental in planting Opium on government land and private land.

Learned counsel for the petitioners next submits that as far as petitioner no. 1 is alleged, the allegation against him also is general and omnibus in nature and he does not have criminal antecedent under the N.D.P.S. Act. It is further submitted that once an accused is implicated in a case, then in similar manner he starts getting implicated.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners and submits that though it has been submitted that the present informant has instituted the other four cases against the petitioner no. 2 but the same is not pleaded in the anticipatory bail application.

Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the



event of their arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Dhangai P.S. Case No. 17 of 2022 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

One of the bailors of the petitioner no. 2 shall be his father Mohammad Mustaque Ahmad @ Chand Khan.

Further, the learned Trial Court before accepting the bail bonds of the petitioner no. 2 shall require him to produce all the four F.I.Rs relating to the N.D.P.S Act and if it is found that all the cases have been instituted in the similar manner by the same informant then his bail bonds shall be accepted and if it is found that the F.I.R has been instituted not by Range Officer but by other persons or Officials then his bail bonds shall not be accepted.

(Satyavrat Verma, J)

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