

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4685 of 2023

Arising Out of PS. Case No.-137 Year-2022 Thana- TATARPUR District- Bhagalpur

MD. MISTER @ MISTER ALI S/O LATE MD. MURTZA ALI @ MD.
MURTZA R/v- Hussainpur, P.S.- Mozahidpur, District- Bhagalpur

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 11589 of 2023

Arising Out of PS. Case No.-137 Year-2022 Thana- TATARPUR District- Bhagalpur

BITTU KUMAR @ BITTU KUMAR SAH S/O SHIV SHANKAR SAH
Resident of village- Moheshpur Aliganj, P.S.- Babarganj, District- Bhagalpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 4685 of 2023)

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

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

(In CRIMINAL MISCELLANEOUS No. 11589 of 2023)

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

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 15-05-2023 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

Petitioners seek bail, who is in custody since
01.07.2022 in connection with Tatarpur P.S. Case No.137/2022
registered for the offences punishable under Sections 20, 22 of
NDPS Act.



According to prosecution case, 2.50 grams of brown sugar like substance and cash of Rs. 2,10,200/- have been recovered from the possession of the co-accused, namely, Md. Iftekhar @ Bittu and 5.30 gram of brown sugar like substance and 5.28 gram of brown sugar like substance have been recovered from the possession of the petitioners.

Learned counsel for the petitioners submits that the petitioners have clean antecedent and they have falsely been implicated in the present case merely on the basis of disclosure made by the co-accused, namely, Md. Iftekhar @ Bittu. He further submits that thereafter, the police has apprehended the petitioners and 5.30 gram of brown sugar like substance has been recovered from the possession of the petitioner no.1, namely, Md. MISTER @ MISTER ALI and 5.28 gram of brown sugar like substance has been recovered from the petitioner no.2, namely, Bittu Kumar @ Bittu Kumar Sah. He further submits that the recovered contraband from the possession of petitioners is less than the commercial quantity, so, there is no embargo under section 37 of the NDPS Act to enlarge the petitioners on bail and there is non-compliance of Section 50 of the NDPS Act. He further submits that co-accused, namely, Md. Iftekhar @ Bittu has been granted bail by Co-ordinate Bench of



this Court vide order dated 18.03.2023 passed in Cr. Misc. No. 2246/2023 and the police after investigation submitted the charge sheet against the petitioners. The petitioners are in custody since 01.07.2022.

Learned Additional Public Prosecutor for the State on the other hand opposed the prayer for bail of the petitioners.

Considering the aforesaid facts and circumstances as well as period of custody, let the petitioners, above named, be released on bail, after framing of charge, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-1, Bhagalpur, in connection with Tatarpur P.S. Case No. 137/2022, subject to 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 and shall remain physically present as directed by the court 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. And further condition that the court below shall



verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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