

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13107 of 2023

Arising Out of PS. Case No.-195 Year-2022 Thana- BRAHMPURA District- Muzaffarpur

Vikky Sahni Son Of Munna Sahani R/O Vill.- Sikandarpur, Muktidhan, P.S.-
Town (SIKANDARPUR O.P.), Distt.- Muzaffarpur

... .. petitioners/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 17691 of 2023

Arising Out of PS. Case No.-195 Year-2022 Thana- BRAHMPURA District- Muzaffarpur

Subodh Kumar Son of Ramprit Sahni R/V- Sikandarpur Muktidham, Ward
No.-12, P.S.- Town (O.P.- Sikandarpur), District- Muzaffarpur

... .. petitioners/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 13107 of 2023)

For the petitioners/s : Mr. Chandra Shekhar Anand, Advocate

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

(In CRIMINAL MISCELLANEOUS No. 17691 of 2023)

For the petitioners/s : Mr. Hari Kishore Thakur, Advocate

For the Opposite Party/s : Mr. Ramchandra Sahni, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 18-07-2023 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

Learned counsel for the petitioners is permitted to
remove the defect(s), as pointed out by the office, if any, within
a period of four weeks from today.

Petitioners seeks bail who are in custody since



02.10.2022 in connection with NDPS Case No. 237 of 2022 arising out of Brahampura P.S. Case No. 195 of 2022, F.I.R. dated 01.10.2022 for the offences punishable under Sections 8(c)/ 20/21(c) of the N.D.P.S. Act.

Recovery is of 452.15 grams of Smack (Heroin).

Learned counsel for the petitioners submits that petitioners have clean antecedent and they have falsely been implicated in the present case. He further submits that it appears from the F.I.R. as well as seizure list that 350.15 gm of Smack (Heroin) has been recovered from the possession of the co-accused person, namely, Md. Zamir and on the basis of the disclosure made by Md. Zamir, the petitioners are apprehended and from possession of each petitioner, 51 gm of Smack (Heroin) have been recovered. He further submits that there is non-compliance of the mandatory provision of Section 50 of the N.D.P.S. Act and it appears that the recovered contraband from the possession of these petitioners are less than the commercial quantity. Hence, there is no embargo under Section 37 of the N.D.P.S. Act for grant of bail to the petitioners. He further submits that the police after investigation submitted the charge sheet against the petitioners. The petitioners are in custody since 02.10.2022.



The learned Additional Public Prosecutor on the basis of material available on record and the case diary has vehemently opposed the prayer for bail of the petitioners and submits that the F.S.L. report confirms that the recovered contraband is Smack (Heroin).

Considering the aforesaid facts and circumstances and the fact that the recovered contraband is less than the commercial quantity, let the petitioners, above named, be released on bail, **after framing of charge** and 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-III, Muzaffarpur in connection with NDPS Case No. 237 of 2022 arising out of Brahampura P.S. Case No. 195 of 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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