

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14626 of 2023

Arising Out of PS. Case No.-1049 Year-2022 Thana- ARARIA District- Araria

1. MD. MIJANOOR HUSSAIN S/O MD. ESRAFUL HAQUE Resident of Village- Pathan Tola, Ward No.- 15, P.S.- Shital Kochi, District- Kuch, Bihar, State West Bengal. At present resident of Pathantuli, Baramaricha, Golenawhati, Koch Bihar, West Bengal, Pin Code- 736158
2. YASHIR ARAPHAT ISLAM S/O MOTIAR MIYA Resident of Village- Pathan Tola, Ward No.- 15, P.S.- Shital Kochi, District- Kuch, Bihar, State West Bengal. At present resident of Pathantuli, Baramaricha, Golenawhati, Koch Bihar, West Bengal, Pin Code- 736158

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Din Bandhu Mishra, Adv.
For the Opposite Party/s : Mr.Rajendra Nath Jha, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 21-07-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with Araria P.S.
Case No. 1049 of 2022 registered for the offence under Sections
20 and 22 of the NDPS Act.

Recovery is of 19 Kg. of Ganja.

Learned counsel appearing for the petitioners submits
that the petitioners, who are of clean antecedent, are innocent
and have falsely been implicated in this case. He further submits
that on bare perusal of the F.I.R., it transpires that nothing has
been recovered from the conscious possession of the petitioners



rather the alleged recovery has been made from the car in question in which the petitioners are said to be boarding. He further submits that according to the F.I.R., altogether 19 kg of Ganja like substance is alleged to have been recovered from the car in question but the petitioners have no knowledge about the present of Ganja as alleged in the F.I.R. which is stated to have been transporting by the driver of the alleged vehicle. He further submits that the petitioners have no concern with the alleged recovery of Ganja. He further submits that the police after investigation has submitted charge-sheet in this case against the petitioner. The petitioners are rotting in judicial custody since 27.11.2022.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioners and submits that the FSL report confirms that the recovered article is Ganja and the same is nineteen times more than small quantity but fairly submits that the alleged quantity of recovery does not come under the purview of commercial quantity.

Considering the facts and circumstances of the case, let the, above named, petitioners 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 learned Sessions Judge, Araria in connection with Araria P.S. Case No. 1049 of 2022/ Special (NDPS) Case No. 48 of 2022 with



the following conditions:-

(1) Petitioner 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 his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. 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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