

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27678 of 2022

Arising Out of PS. Case No.-9 Year-2022 Thana- D.R.I District- Patna

1. Rameshwar Bind, Son of Sri Golambar Prasad @ Golambar Bind Resident of Village - Lohandi Kalan , P.s.- Nakahara, P.s.- Dehat Kotwali, Distt.- Mirzapur (U.P), PIN 231001
2. Ramdhani @ Ramdhani Bind, Son of Late Vipat, Resident of Village - Lohandi Kalan , P.s.- Nakahara, P.s.- Dehat Kotwali, Distt.- Mirzapur (U.P), PIN 231001

... .. Petitioner/s

Versus

The Union of India Govt. of India.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Birju Prasad, Advocate Mr. Ajit Anand, Advocate Miss Shweta Anand, Advocate
For the D.R.I.	:	Mr. Ranvir Kumar, Senior Standing Counsel

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

6 15-02-2023 Heard learned counsel for the petitioners and learned counsel for the Directorate of Revenue Intelligence, Union of India.

Let the defect (s), if any, as pointed out by the office,
be removed within a period of four weeks.

In the present case, the petitioners seek bail in connection with Complaint Case NO. 02(O)/2022 arising out of D.R.I. Patna Unit Case No. 09/2021-22 registered for the alleged offences under Section 135(1)b of the Customs Act.

As per the prosecution case, 3 K.G. each of gold in the form of bars and negates have been recovered from the



petitioners while they have been traveling in train from Howrah to Mirzapur, and they were apprehended during their travel by the D.R.I. Officials.

The learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. The petitioners are employees of one M/S Raj Shree Jewellers, Mirzapur and they have produced all the documents regarding lawful possession of the gold. The documents brought on record by the prosecuting agency falsifies the claim of the prosecution about gold being smuggled or of foreign origin or of unlawful antecedent. The proprietor of the firm was summoned by the officials and he admitted the ownership of the gold and relevant documents have also been seized from his establishment which shows all the 6 KG gold was accounted for and G.S.T. has been paid on it. Learned counsel further submits that while the *panchanama* for the seized gold was made it has been specifically mentioned that there was no foreign marking on the said gold or marking of any kind present on the gold bars. Furthermore, seizure was effected by Intelligence Officer who was not authorized to effect the seizure. Learned counsel further submits that D.R.I. has failed to do proper test of purity of the gold by hallmarking machine. Rather, it was assessed on the basis of the assessment of a valuer. Learned counsel further submits that the



confession was extracted from the petitioners which they later on, retracted. The statement of the petitioners was not recorded before the learned Judicial Magistrate under Section 164 of the Cr.P.C. The petitioners are not having any criminal history and they are in custody since 05.01.2022. Investigation is complete in the matter.

Learned counsel appearing on behalf of the D.R.I. vehemently opposes the submission made on behalf of the petitioners. Learned counsel further submits that the petitioners were apprehended as they were found in possession of smuggled gold which they have brought from Bangladesh. Learned counsel further submits that the gold seized from the petitioners is of 99.75 % purity which is not found in the Indian gold. The seizure was made by the Intelligence Officer and he has been notified for the purpose of effecting seizure and the contention made on behalf of the petitioners on this ground is not correct. Learned counsel further submits that the total value of gold is about Rs. 3,00,00,000/-(Three Crores) and the punishment prescribed for possession of such huge quantity of gold is up to 7 years.

Perused the records.

Having regard to the facts and circumstances and rival submission made on behalf of the parties and considering the preponderance of documents showing the possibility of gold



being lawful and claim of the same by the owner of M/S Raj Shree Jewellers as is reflected from the records and further considering the period of custody of the petitioners and completion of investigation against them, the petitioners above named are directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) each with two sureties of the like amount each to the satisfaction of the Court of the learned Special Judge, Economic Offence, Patna, in connection with Complaint Case NO. 02(O)/2022 arising out of D.R.I. Patna Unit Case No. 09/2021-22, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of the petitioners.
- (ii) The petitioners will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioners will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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