

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34325 of 2023

Arising Out of PS. Case No.-1140 Year-2022 Thana- ARARIA District- Araria

1. Abhiseikh Sah @ Abhishek Sah Son of Sunil Sah Resident of village - Daudnagar, P.S. - Biddupur, Distt. - Vaishali
2. Madhav Bharali @ Madhab Bharali Son of Vimal Varali Resident of Puttikhati (Kuttikati), P.S. - Salnibari, Distt. - Sonitpur (Assam).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N. A. Shamsi, Advocate

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 26-06-2023 Heard learned counsel appearing on behalf of the
petitioners and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period of
four weeks from today.

The petitioners seek bail in connection with Araria
(Bairgachi) P.S. Case No. 1140 of 2022 registered for the offence
under Sections 20(b)(ii)(c), 25 and 29 of the N.D.P.S. Act.

Both accused/petitioners are named in the F.I.R. and
are in custody since 27.12.2022.

The allegation against the petitioners is to have in
possession of contraband i.e., *ganja* total of 14.09 kg alongwith
other co-accused persons.



Learned counsel appearing on behalf of the petitioners submitted that petitioners falsely implicated with present case and from seizure list itself it appears that recovery of alleged contraband i.e., *ganja* was made from roadside, which is an open place and accessible by general public, negating the allegation that same has been recovered from conscious physical possession of these petitioners. It is submitted that alleged recovered quantity is less than commercial quantity i.e., 20kg in the case of *ganja* and, as such, rigorous provision of Section 37 of the N.D.P.S. Act not appears to be applicable in present case. While concluding the argument, it has been submitted that petitioners are men of clean antecedent and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP opposes the prayer of bail.

Considering the facts and circumstances as mentioned above and by taking note of the fact as recovery of alleged contraband i.e., *ganja* not appears to be made, *prima facie*, from the conscious physical possession of these petitioners as per seizure list, where recovered *ganja* is less than commercial quantity coupled with the fact that charge-sheet has already



submitted, where petitioners are in custody since 27.12.2022, accordingly, both the petitioners, above named, are directed to be released on bail in connection with Araria (Bairgachi) P.S. Case No. 1140 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge, N.D.P.S. Act, Araria/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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