

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32609 of 2023

Arising Out of PS. Case No.-3 Year-2023 Thana- ALOULI District- Khagaria

1. BINOD KUMAR SAH S/O NAGESHWAR SAH R/O Village- Sansarpur, P.S- Muffasil, Distt.- Khagaria.
2. Pratap Kumar S/O Balmiki Ram R/O Village- Sansarpur, P.S- Muffasil, Distt.- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Santosh Kumar Singh

Mr. Praveen Kr Agrawal

For the Opposite Party/s : Mr.Bharat Lal

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 24-06-2023 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners seek bail in connection with Special
Case No. 01 of 2023 arising out of Alauli P.S. Case No. 03 of 2023
registered for the offences punishable under Sections 20/22 of the
NDPS Act.

As per prosecution case, there is alleged recovery of
2.100 kg ganja from the motorcycle of the petitioners and petitioners
apprehended on spot.

Learned counsel for the petitioners submits that
petitioners are in custody since 06.01.2023 and both bear no criminal
antecedent. Charge sheet has been submitted in the case and there is
no likelihood of tampering with the prosecution evidence. He further



submits that the alleged recovery of Ganja is 2.100 KG. Commercial quantity of Ganja is 20 KG and small quantity of Ganja is 100 g.m. but the said recovery of Ganja comes under intermediary quantity which is less than commercial quantity, as per notification of Schedule 2 of the N.D.P.S Act. He further submits that no incriminating article has been recovered from the conscious possession of the petitioners. He further submits that seizure list has not been prepared as per law and there is complete violation of Section 50 of the N.D.P.S. Act.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioners.

Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of the petitioners, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner above named be released on bail, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Addl. Session Judge-Vth-Cum- Spl-Judge, N.D.P.S, Khagaria in connection with Special Case No. 01 of 2023 arising out of Alauli P.S. Case No. 03 of 2023 subject to following conditions:-

(i) One of the bailors shall be either father or mother or



sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioners will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) 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.

(iv) If the petitioner is found involved in similar nature of offences in future, the learned trial court shall be at liberty to cancel his bail bond.

(v) However, if petitioner violates any of the conditions, the concerned court is at liberty to cancel the bail bond of the petitioner.

(Alok Kumar Pandey, J)

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