

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32017 of 2023

Arising Out of PS. Case No.-279 Year-2022 Thana- BAISI District- Purnia

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1. AVINASH SINGH @ CHANDAN KUMAR Son of Vijay Kumar Singh
Resident of Village - Singhanpura, P.S.- Brahampur, Dist.- Buxar.
 2. Satendar Kumar Yadav @ Pappu Singh Son of Ram Kumar Yadav Resident
of Village - Singhanpura, P.S.- Brahampur, Dist.- Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anirudh Mishra, Advocate

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

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 31-07-2023 1. Heard learned counsel for the petitioners and
learned A.P.P. for the State.

2. The petitioners apprehend their arrest in a case
registered for the offences punishable under Sections 8/20 (b)
(ii) (c) and 25/28/29 of the N.D.P.S. Act.

3. Learned counsel for the petitioners submits that the
petitioners are persons with clean antecedent.

4. The informant alleges that 50.800 kg of Ganja was
recovered from a Scorpio vehicle and 405.800 kg of Ganja was
recovered from a container, further four accused persons were
arrested from Scorpio and Baccha Lal Paswan was arrested
from the container who disclosed the name of the driver of the



container as Sanjay Pal who fled, further, the names of the petitioners were disclosed by the accused persons apprehended from the Scorpio.

5. Learned counsel for the petitioners submits that the petitioners have been falsely implicated in the present case, it is next submitted that from perusal of the allegation as alleged in the F.I.R., it would manifest that the petitioners were not arrested from the place of occurrence and their name was disclosed by the apprehended accused persons in police custody which does not have any evidentiary value, when petitioners admittedly are persons with clean antecedent. Learned counsel further submits that no doubt the allegations as alleged in the FIR are serious in nature, but then merely because an apprehended accused has disclosed the name of the petitioners before the police justifies their arrest without investigation. Learned counsel for the petitioners next submits that the Hon'ble Supreme Court in the case of *State by Narcotics Control Bureau Vs. Pallulabid Ahamad Arimutta and another, SLA (Criminal) No. 242 of 2022*, along with other cases at Paragraph-10 has held that in *Tofan Singh Vs. State of Tamil Nadu (2021) 4 SCC 1*, it has been held that a confessional statement recorded under Section 67 of the N.D.P.S. Act will



remain inadmissible in the trial of an offence under the N.D.P.S. Act. The learned counsel, thus, submits that even the Hon'ble Supreme Court has held that confessional statement recorded under Section 67 of the NDPS Act is not admissible in evidence in trial and thus has to be proved. It is further submitted that petitioners will not abscond rather will co-operate in the investigation and will present themselves as and when required by the Investigating Officer of the case for eliciting the truth and proving their innocence.

6. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners.

7. Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 50,000/- (Rupees Fifty Thousand) each with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Baishi P.S. Case No. 279 of 2022 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

8. One of the bailors of the petitioner no. 1 and



petitioner no. 2 shall be their father namely Vijay Kumar Singh and Ram Kumar Yadav respectively.

9. However, it is made clear that in the event if the Investigating Officer of the case files an application before the learned Trial Court bringing to its notice that the petitioners despite giving assurance to this Court are not co-operating in the investigation or not presenting themselves as and when called for, the learned Trial Court shall forthwith cancel their bail bonds after recording reasons.

10. Let a copy of this order be also sent to the concerned Police Station through the learned Trial Court.

11. Further, it is also made clear that in the event, if charge sheet is submitted connecting the petitioners with the offence, then in that event the present anticipatory bail order shall lose its effect.

(Satyavrat Verma, J)

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