

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 40182 of 2023

Arising Out of PS. Case No.-117 Year-2023 Thana- BHAWANIPUR District- Purnia

1. GOVINDA KUMAR S/O LATE NIRMAL SAHA @ GHOTALU SAH
Resident- Yadav Tola Bhawanipur Milik PS. Bhawanipur, Dist. Purnea
2. KANHAIYA KUMAR SAH S/O LATE NIRMAL SAH @ GHOTALU SAH
Resident- Yadav Tola Bhawanipur Milik PS. Bhawanipur, Dist. Purnea

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar Agrawal, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 14-07-2023 Heard the parties.

The petitioners are in custody in connection with Bhawanipur P.S. Case No. 117 of 2023 for the offence under Section 8(c)/21(b) of the Narcotic Drugs and Psychotropic Substances Act lodged on 14.05.2023 by the informant, Sujit Kumar.

The prosecution case, in brief, is that the informant is SHO of Bhawanipur P.S. received secret information from the reliable sources regarding doing illegal business of '*Smack*' (Brown Sugar) from his house. On this information, the informant made '*Sanha*' entry by informing to the superior official and the SDM, Dhamdaha with a request to depute a



Magistrate. The superior police officer constituted a raiding party and at about 16.40 hours, informant reached to the house of these petitioners and saw that two persons are sitting there.

On being asked, the aforesaid persons disclosed their names as Govinda Kumar and Kanhaiya Kumar Sah. Local people seeing the police action assembled there. Out of whom, informant in presence of deputed Magistrate searched the grocery shop of these petitioners and recovered 49 pouches of smack weighing 6.73 gm. (Brown Sugar) from the grocery shop of these petitioners, kept in black Polythene in his said shop as also cash of Rs 1450.

Accordingly, the informant prepared seizure list and arrested these petitioners. The apprehended persons/petitioners confessed their guilt regarding doing illegal business of Smack (Brown Sugar). Petitioner Govinda Kumar also disclosed that one Rajiv Mehta provided the alleged Smack to him. Accordingly, the F.I.R.

It has been submitted by the learned counsel for the petitioners that they are full brothers and have been implicated in this case and further recovery/seizure of 6.73 gm '*Smack*' as also cash of Rs. 1450/- which even otherwise is below the commercial quantity.



Learned APP opposes the prayer but concedes that the quantity recovered/seized is below the commercial quantity.

Considering the aforesaid submissions as also the fact that they are in custody since 15.05.2023 and further do not have any criminal antecedent, this Court is inclined to extend them the privilege of bail with conditions.

Let the petitioners be released on bail on furnishing bail bond of Rs. 20,000/- (Twenty thousand) each with two sureties of like amount each to the satisfaction of learned Court of the Sessions Judge cum Special (NDPS Act) Judge, Purnea, in connection with Bhawanipur P.S. Case No. 117 of 2023 subject to the following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioners shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bond by the Trial Court itself;

(iii) the petitioners shall appear before the concerned police station every fortnight for one year to mark their attendance;



(iv) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioners shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of their bail bonds.

With the aforesaid observations, the application is allowed.

(Rajiv Roy, J)

Jagdish/kiran/-

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