

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49915 of 2022

Arising Out of PS. Case No.-257 Year-2022 Thana- NAWADA District- Nawada

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SHEONANDAN MAHATO Son of Late Jhaman Mahto R/v- Debanpura,
Post- Ohari P.S- Kadirganj, Dist- Nawada (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 64260 of 2022

Arising Out of PS. Case No.-257 Year-2022 Thana- NAWADA District- Nawada

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Ishwari Prasad @ Ishwar Prasad @ Ishwari Mahto S/O Badho Mahto
Resident of village- Dewanpura, P.O.- Ghostama, P.S.- Kadirganj, District-
Nawada, Bihar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 49915 of 2022)

For the Petitioner/s : Mr. Subodh Kumar, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Singh, A.P.P.

(In CRIMINAL MISCELLANEOUS No. 64260 of 2022)

For the Petitioner/s : Mr. Praveen Prabhakar, Advocate

For the Opposite Party/s : Mr. Murli Dhar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 25-04-2023 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

Let the defects, as pointed out by the office, be
removed within a period of four weeks from today.

Petitioners seek bail, who are in custody since
13.06.2022 and 22.03.2022 in connection with Nawada Town



(Kadirganj) P.S. Case No. 257 of 2022, F.I.R. dated 21.03.2022 for the offences punishable under Sections 8(b)(c), 20(a)(b) of the N.D.P.S. Act, 1985.

Allegation against these petitioners as per F.I.R. is that plant of Posta Dana/Afim plant was recovered from the filed of the petitioners and all together total 22 kg. of Posta Dana/Afim was recovered from the possession of petitioner namely, Sheonandan Mahato, and 34 Kg. of Posta Dana/Afim was recovered from the possession of petitioner namely, Ishwari Prasad @ Ishwar Prasad @ Ishwari Mahto.

Learned counsel for the petitioners submits that petitioners have clean antecedent and they have falsely been implicated in the present case. He further submits that there is non-compliance of Section 50 of N.D.P.S. Act and in fact the petitioners are not cultivated the Posta/Afim in the land in question and they have not concerned with the cultivation of Posta/Afim and it appears that all together total 22 kg. of Posta Dana/Afim was recovered from the possession of petitioner namely, Sheonandan Mahato, and 34 Kg. of Posta Dana/Afim was recovered from the possession of petitioner namely, Ishwari Prasad @ Ishwar Prasad @ Ishwari Mahto. He further submits that as per Notification under the N.D.P.S. Act “Small Quantity” and “Commercial Quantity” with respect to cultivation of opium



poppy is not specified separately as the offence in this regard is covered under clause (c) of section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985. He further submits that the police after investigation submitted the charge sheet against these petitioners and the petitioner namely, Sheonandan Mahato is in judicial custody since 13.06.2022 and petitioner namely, Ishwari Prasad @ Ishwar Prasad @ Ishwari Mahto is in judicial custody since 22.03.2022.

Vide order dated 24.03.2023 a report was called for with regard to the present stage of trial. Report dated 06.04.2023 of the learned trial court reveals that charges have been framed against these petitioners on 27.07.2022 and out of nine charge sheet witnesses including three non-official witnesses and six official witnesses but till date no witness has been produced and examined by the prosecution.

Learned counsel for the petitioners further submits that in view of the report of the learned Trial Court that the trial is not likely to be concluded in near future and the petitioner namely, Sheonandan Mahato is in judicial custody since 13.06.2022 and petitioner namely, Ishwari Prasad @ Ishwar Prasad @ Ishwari Mahto is in judicial custody since 22.03.2022.

Considering the aforesaid facts and circumstances, let the petitioners, above named, be released on bail on furnishing



bail bond of Rs. 25,000/- (Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned District and Sessions Judge, Nawada in connection with Nawada Town (Kadirganj) P.S. Case No. 257 of 2022, subject to the following conditions:-

1. Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

2. 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.

3. And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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