

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33946 of 2022

Arising Out of PS. Case No.-9 Year-2022 Thana- D.R.I District- Muzaffarpur

=====

SURENDRA MAHTO @ SURENDRA PRASAD S/o Chandrika Prasad @
Chandrika Mahto Resident of Village- Chandramanhata, Police Barharia,
District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Union of India through Directorate of Revenue Intelligence, Regional Unit,
Muzaffarpur. Bihar

... .. Opposite Party/s

=====

with
CRIMINAL MISCELLANEOUS No. 50157 of 2022

Arising Out of PS. Case No.-9 Year-2022 Thana- D.R.I District- Muzaffarpur

=====

HARIKESH KUMAR Son of Shivnath Yadav R/O Village and Post -
Mohammadpur, P.S.- Barharia, District - Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Union of India through Directorate of Revenue Intelligence, Regional Unit,
Muzaffarpur. Bihar

... .. Opposite Party/s

=====

Appearance :

(In CRIMINAL MISCELLANEOUS No. 33946 of 2022)

For the Petitioner/s : Mr. Raghav Prasad, Adv.

For the State : Mr. Akhileshwar Dayal, APP.

For the D.R.I. (U.O.I.) : Mr. Ranvir Kumar, Sr.SC.

Mr. Anshuman Singh, Adv.

(In CRIMINAL MISCELLANEOUS No. 50157 of 2022)

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Adv.

For the State : Mr. Shyam Kumar Singh, APP.

For the D.R.I. (U.O.I.) : Mr. Ranvir Kumar, Sr.SC.

Mr. Anshuman Singh, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

7 13-03-2023 Let the defects, if any, pointed out by the office be

removed within three weeks from the date of this order, failing



which these matters be listed again under the appropriate heading for necessary action.

Both the criminal miscellaneous petitions have arisen out of the same police station case number, hence they are being heard together and disposed of by a common order.

Heard learned counsels for the petitioners, learned APPs for the State and learned senior standing counsel for the Directorate of Revenue Intelligence (Union of India).

Petitioners seek regular bail in connection with D.R.I. Case No. 09 of 2022 registered for the offence punishable under Section 135(1)(a)(b) of Customs Act.

Allegedly, on search, eighty-five fake currency notes of Rs. 500/- denomination were recovered under the seat of the motorcycle of the petitioner Surendra Mahto @ Surendra Prasad and the petitioner Harikesh Kumar was also found with the petitioner Surendra Mahto @ Surendra Prasad when they were apprehended and as per the prosecution both the petitioners brought and smuggled the alleged fake currency notes from Nepal to India.

It is submitted by learned counsel for the petitioner Surendra Mahto @ Surendra Prasad that the petitioner acted only as a carrier in connection with the alleged recovered fake



currency notes, which were provided to him by one namely Raju, who has not been made accused in this case and the offence punishable under Customs Act, 1962 under which the official complaint was filed is punishable with an imprisonment upto seven years. Further submission is that in view of the nature of allegation, the offence punishable under Section 489(C) of the Indian Penal Code is only attracted in this case which is a bailable offence and the trial of this petitioner has started and he has been languishing in jail since 28.01.2022, having fair and clean antecedent. Further submission is that the prosecution's report in connection with the recovery of alleged currency notes was filed after two months from the date of alleged recovery and when the said petitioner got the delivery of the said notes, he had no knowledge about the alleged currency as to being fake.

It is submitted by learned counsel for the petitioner Harikesh Kumar that at the time of recovery of alleged fake currency notes, the said petitioner was found as pillion rider on the motorcycle of the co-accused Surendra Mahto @ Surendra Prasad and in the present time, he is facing trial and the charges have been framed upon him.

Learned APPs appearing for the State as well as



learned senior standing counsel appearing for the Directorate of Revenue Intelligence (Union of India) have vehemently opposed the bail prayer of both the petitioners and submitted that there is serious allegation against both the petitioners as they smuggled the fake currency notes from Nepal to India and they were apprehended red-handed with the said notes and the alleged act of the petitioners also comes under the purview of Section 15 of Unlawful Activities (Prevention) Act, 1967 under which the cognizance has also been taken by the Court concerned and the same is punishable with an imprisonment upto ten years and as per the notification issued by Ministry of Finance, the alleged fake currency notes which were recovered from the possession of the petitioners come under the purview of prohibited material and under the Customs Act, 1962 the maximum punishment is of seven years for the alleged wrong which is punishable under Section 135 of Customs Act, 1962 and as per the admission and statements made by both the petitioners during investigation, they had sufficient knowledge of the alleged currency notes being fake when they received the same from another person namely Raju and in this regard, their statements are admissible under Section 108 of Customs Act.

Heard both the sides and perused the official



complaint filed by the custom officials in connection with the recovery of the alleged fake currency notes. Though, the allegation of smuggling and keeping the currency notes by the petitioners, which were found to be fake as per the FSL report is serious in nature but considering the facts that both the petitioners have fair and clean antecedent and they have spent more than one year in jail and the alleged act of the petitioners also attracts the offence punishable under Section 489(C) of the Indian Penal Code which is a bailable offence and the offence punishable under Section 15 of Unlawful Activities (Prevention) Act, 1967 of which the cognizance has also been taken by the Court concerned is mainly based on presumption and also taking into account the fact that the trial of both the petitioners has started and the same is at initial stage, in my opinion both the petitioners deserve to a lenient approach of this Court. Accordingly, let both the petitioners named-above be enlarged on bail on furnishing bail bonds of Rs.10,000/-(Ten Thousand) each with two sureties of the like amount each to the satisfaction of the Court concerned in connection with D.R.I. Case No. 09 of 2022.

(Shailendra Singh, J)

annu/-

U		T	
---	--	---	--

