

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54050 of 2023

Arising Out of PS. Case No.-126 Year-2023 Thana- DHAKA District- East Champaran

1. HAJARAT ALI S/O AHED ALI @ MOHAMMED AHED ALI RESIDENT OF VILLAGE- N K DARRANGA PO- DARANGAMELA POLICE STATION- TAMULPUR DISTRICT BAKSA (ASSAM) PIN-0781360
2. MAJRIN NECHA @ MAJIRAN NECHA W/O HAJARAT ALI RESIDENT OF VILLAGE- N K DARRANGA PO- DARANGAMELA POLICE STATION- TAMULPUR DISTRICT BAKSA (ASSAM) PIN-0781360

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : None.

For the Opposite Party/s : Mr. Raj Ballabh Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 24-08-2023 No one appears on behalf of the petitioners although learned APP for the State is present.

The petitioners are in judicial custody in connection with NDPS Case No. 16/2023 arising out of Dhaka P.S. Case No. 126/2023 registered under Sections 21, 22 and 37 of the NDPS Act lodged on 18.03.2023 by the informant, Mukesh Chandra Kumar.

As per the prosecution story, the police on confidential information that a couple is sitting in the bus with prohibited intoxicated medicines, entered the bus and upon enquiry, as the couple failed to answer, from the bag



present nearby there Spasmo- Proxyvon Plus capsules were recovered weighing 8 Kg. 900 grams. Accordingly, seizure list prepared, FIR lodged and they were arrested.

Since no one has appeared on behalf of the petitioners, this Court has gone through the petition and as per it, the same has not been recovered from their conscious possession rather it was in the Bus and the police only to implicate them have made this theory of having found the bag near the two passengers, the couple herein.

Further as per the petition the recovery of medicine (Spasmo Proxyvon plus) cannot be a case under NDPS Act rather if the same is without any proper receipt can come under Drug and Cosmetics Act, 1940. Further, as per the petition, one of the petitioner is lady and they have suffered by being in custody since 19.03.2023 (as stated in paragraph-1 of the petition) and both the petitioners do not have criminal antecedent.

Learned APP for the State opposes the prayer for bail stating that it was recovered from the bag present near the two petitioners.

Taking into account the facts on record, the



averments made in the petition, the period of custody as also the fact that none of them have criminal antecedent and one of the petitioner is a lady, this Court is inclined to grant them the privilege of bail.

Let the petitioners be released on bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned 14th Additional Sessions Judge cum Special Judge (NDPS), East Champaran at Motihari in connection with NDPS Case No. 16/2023 arising out of Dhaka P.S. Case No. 126 of 2023, subject to the following conditions:

(i) one of the bailor should be the family member of the petitioners 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 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 their bail bonds;

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

(Rajiv Roy, J)

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