

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53737 of 2023

Arising Out of PS. Case No.-158 Year-2023 Thana- JAYNAGAR District- Madhubani

Md. Jasim @ Jasim Shekh @ Zasuuddin Son Of Maziruddin Resident Of
Village Sujapur Babungaram Police Station Kaleya Chawk Dist-Maldah
(State West Bengal)

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 54303 of 2023

Arising Out of PS. Case No.-158 Year-2023 Thana- JAYNAGAR District- Madhubani

Naseeb Ali @ Naseeb Sheikh Son Of Abdul Majid @ Majih Sheikh @ Majed
Sk Resident Of Village-Kamatpara Bamangram, P.S.-Kaliachak
(kaliyachakra), District - Malda (west Bengal)

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 53737 of 2023)

For the Petitioner/s : Mr.Shailendra Kumar Jha, Advocate

For the Opposite Party/s : Mr.Anish Chandra,A.P.P.

(In CRIMINAL MISCELLANEOUS No. 54303 of 2023)

For the Petitioner/s : Mr.Manish Kumar No .-13, Advocate

: Mr. Rohit Kumar, Advocate

: Mrs. Prity Kumari, Advocate

For the Opposite Party/s : Mr.Dr.Mrityunjaya Kr.Gautam, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 20-09-2023 Heard learned counsel for the petitioners and the
learned A.P.P. for the State in both the applications.

2. The petitioners seek bail, who are in custody since
16.04.2023 in connection with Jainagar P.S.Case No.158 of
2023, corresponding to G.R.No.31 of 2023, F.I.R. dated



15.04.2023 registered for the offence punishable under Sections 8/21/22 of the NDPS Act.

3. Recovery is of 40 Gms of Brown Sugar, Rs. 1760 Indian Note and two mobile phones from possession of petitioner- Md. Jasim @ Jasim Sheikh @ Zasimuddin and 100 Grams of Brown Sugar, one Aadhar Card, Rs. 3000/- Indian Currency Note and one Vivo mobile phone from possession of petitioner- Naseeb Ali @ Naseeb Sheikh.

4. Learned counsel appearing for the petitioners submits that petitioner- Md. Jasim @ Jasim Sheikh @ Zasimuddin carries one more case other than the present one but he is on bail in the said case, petitioner- Naseeb Ali @ Naseeb Sheikh has clean antecedent. Further submits that the petitioners have falsely been implicated in the present case. The allegation as alleged in the FIR is false and fabricated and from a bare perusal of the FIR as well as the seizure list that 40 Gms of Brown Sugar, Rs. 1760 Indian Note and two mobile phones were recovered from possession of petitioner-Md. Jasim @ Jasim Sheikh @ Zasimuddin and 100 Grams of Brown Sugar, one Aadhar Card, Rs. 3000/- Indian Currency Note and one Vivo mobile phone were recovered from possession of petitioner- Naseeb Ali @ Naseeb Sheikh. Learned counsel for



the petitioners submits that there is non-compliance of Sections 42 and 50 of the NDPS Act and recovery of contraband from possession of the petitioners are less than the commercial quantity so there is no embargo under Section 37 of the N.D.P.S. Act to enlarge the petitioners on bail and co-accused person, namely, Naim @ Naim Sekh @ Md. Naim, from his possession 100 Gms of Brown Sugar has been recovered, co-accused person, namely, Babar Ali @ Md. Babar Ali @ Babar Alli, from his possession, 100 Gms of Brown Sugar has been recovered and co-accused person, namely, Soman Kumar Yadav, from his possession, 35 Gms of Brown Sugar alongwith Rs. 7850/- Indian Note and Rs. 12,700/- Nepali Notes have been recovered, all the aforesaid co-accused persons have been granted bail by different Coordinate Benches of this Hon'ble Court vide orders dated 08.08.2023, 09.08.2023 and 13.09.2023 passed in Cr. Misc. Nos. 49684 of 2023, 50155 of 2023 and 58349 of 2023 respectively and the police, after investigation, submitted chargesheet against the petitioners and the petitioners are in custody since 16.04.2023.

5. Learned APP for the State, on the other hand, on the basis of the material available on the record and the case diary, has vehemently opposed the prayer for bail of the



petitioners and submits that the sample under reference answers positive test for Morphine and recovered contraband is more than the small quantity but fairly submits that co-accused persons have been granted bail by different Coordinate Benches of this Hon'ble Court and the recovered contraband is less than the commercial quantity.

6. Considering the aforesaid fact, let the petitioners, above named, be released on bail **after framing of the charges** on furnishing bail bond of Rs.10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Sessions Judge, Madhubani in connection with Jainagar P.S.Case No.158 of 2023, corresponding to G.R.No.31 of 2023, with the following conditions:-

(I) 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.

(II) 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.

(III) 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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