

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64811 of 2022

Arising Out of PS. Case No.-278 Year-2022 Thana- GOPALPUR District- Bhagalpur

Karan Raj S/O Bechan Prasad Yadav R/O Village- West Bhitha, P.S.-
Ismilepur, District- Bhagalpur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 74126 of 2022

Arising Out of PS. Case No.-278 Year-2022 Thana- GOPALPUR District- Bhagalpur

Kanhaiya Kumar Son Of Mahendra Sah R/O Village- Bhawanipur, P.S.-
Ranga, District- Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 64811 of 2022)

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

For the Opposite Party/s : Mr. Shyameshwar Dayal, APP

(In CRIMINAL MISCELLANEOUS No. 74126 of 2022)

For the Petitioner/s : Mr. Rajendra Prasad Sah, Advocate

For the Opposite Party/s : Ms. Dr. Indihar Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 05-07-2023 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

Learned counsel for the petitioners is permitted to
remove the defect(s), as pointed out by the office, if any, within
a period of four weeks from today.

Petitioners seek bail who are in custody since



08.06.2022 in connection with Gopalpur (Rangra) P.S. Case No. 278 of 2022 corresponding to NDPS Case No. 71 of 2022, F.I.R. dated 07.06.2022 for the offences punishable under Sections 8(c), 21(c) and 25 of the N.D.P.S. Act.

Recovery is of 400 grams of Heroin.

Learned counsel for the petitioners submits that petitioners have falsely been implicated in the present case. He further submits that it appears from the F.I.R. that 400 grams of Heroin have been recovered from the possession of the petitioners and other accused persons. He further submits that from perusal of the seizure list that 100 grams of Heroin has been recovered from the co-accused, namely, Deepak Kumar and 100 grams of Heroin has been recovered from the possession of petitioner no. 2, namely, Kanhaiya Kumar and 200 grams of Heroin has been recovered from the car of the petitioner no. 1, namely, Karan Raj who is also the owner of the car in question. He further submits that there is non-compliance of the mandatory provision of Sections 42 and 50 of the N.D.P.S. Act and it appears that the recovered contraband is less than the commercial quantity. Hence, there is no embargo under Section 37 of the N.D.P.S. Act for grant of bail to the petitioner. He further submits that the recovery is not in compliance with



the procedures prescribed in the NDPS Act and the recovered contraband from the possession of the petitioner no. 1 and 2 i.e., 200 grams and 100 grams respectively are less than the commercial quantity. He further submits that it appears from the final form that without the F.S.L report the prosecution has filed the charge sheet dated 04.09.2022 against the petitioners. He further submits that the similarly situated co-accused person, namely, Deepak Kumar who was also apprehended along with the petitioners has been granted bail by the Co-ordinate Bench of this Court vide order dated 07.02.2023 passed in Cr. Misc No. 61858 of 2022. The petitioners are in custody since 08.06.2022.

The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioners and submits that the F.S.L. report confirms that the recovered contraband is Heroin.

Considering the aforesaid facts and circumstances and the fact that the recovered contraband is less than the commercial quantity, 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 Sessions Judge, Bhagalpur in



connection with Gopalpur (Rangra) P.S. Case No. 278 of 2022 corresponding to NDPS Case No. 71 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 tampers 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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