

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71507 of 2022

Arising Out of PS. Case No.-24 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Nawada

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1. Mithilesh Paswan Son Of Prasad Paswan R/O Village- Chokosan, P.S.- Bidupur, District- Vaishali.
 2. Santosh Paswan Son Of Mahesh Paswan R/O Village- Chokosan, P.S.- Bidupur, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Man Mohan Kumar, Advocate

For the Opposite Party/s : Mr.Chandra Bhushan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 14-07-2023 Heard learned counsel appearing on behalf of the
petitioners and learned counsel appearing on behalf of the State.

2. Let the defect(s), if any, be removed within a period
of four weeks from today.

3. The petitioners seek bail in connection with NDPS
Case No. 24 of 2021 (Nawada) registered for the offence under
Sections 8, 20(ii)(b)(c) of the NDPS Act.

4. The accused/petitioners are named in the F.I.R. and
are in custody since 19.06.2021.

5. The allegation against the petitioners is to have in
possession of contraband i.e. Ganja, total of 1105 Kg, where
petitioner no. 1 is driver and petitioner no. 2 is helper of the



truck bearing registration no. BR31GA-0963, carrying the alleged consignment of Ganja.

6. Learned counsel appearing on behalf of the petitioners submitted that the petitioners are driver and co-driver of the truck alleged to carrying contraband, where nothing surfaced during the course of investigation which may suggest that petitioners were aware about the said consignment, and as such, it can be said safely that alleged recovery of “Ganja” was not appears to made from conscious physical possession of petitioners. It is also submitted that the sampling and seizure of contraband is also not appearing in terms of legal provisions as mandatory under the NDPS Act, 1985. While concluding the argument, it is submitted that both petitioners are of clean antecedents, and moreover, investigation of this case is completed, for which charge-sheet has been submitted, and, as such, there is no chance of tampering with the evidence.

7. Learned APP, while opposing the prayer of bail submitted that recovered contraband is total of 1105 Kg of “Ganja” which is a huge quantity much above than commercial, negating *prima facie* that petitioners being driver and co-driver were not aware about the consignment. It is submitted that matter be viewed in terms of rigorous provision as laid under



Section 37 of the NDPS Act. It is further submitted that there is nothing on record which may suggest to believe that petitioners are not guilty of such offence and they will not likely to commit any offence, while on bail.

8. Considering the facts and circumstances as mentioned above and by taking note of huge recovery of Ganja i.e. 1105 Kg and further by taking note of rigorous provision of Section 37 of NDPS Act, prayer of bail of petitioners are rejected herewith.

9. The learned trial Court is directed to conclude the trial expeditiously, preferably within nine months from the date of receipt of this order.

(Chandra Shekhar Jha, J)

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