

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72205 of 2022

Arising Out of PS. Case No.-200 Year-2019 Thana- ADAPUR District- East Champaran

1. RAHAMTULLAH ANSARI S/O JAMIL AKHTAR ANSARI
2. SANJAY KUMAR S/O NAGENDRA RAUT
Both Resident of village- Vishunpurwa, P.S.- Bairya, District- Bara (Nepal).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Ganesh Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

- 3 27-04-2023 Heard learned counsel for the petitioners and the
learned A.P.P. for the State.

The petitioners seek bail, who are in custody since 18.08.2019 in connection with N.D.P.S. Case No.60 of 2019 arising out of Adapur P.S. Case No. 200 of 2019, F.I.R. dated 17.08.2019 registered for the offence punishable under Sections 8, 20(b)(ii)c of N.D.P.S. Act.

The case relates to recovery is of 14.900 Kg of Charas from possession of petitioner No.1 and 14.400 Kg of Charas from possession of petitioner No.2.

Learned counsel for the petitioners submits that the petitioners have clean antecedent and they have falsely been implicated in the present case. Further submits that it appears



from the FIR as well as the seizure list that 14.900 Kg of Charas was recovered from possession of petitioner No.1 and 14.400 Kg of Charas was recovered from possession of petitioner No.2. Further submits that there is non-compliance of Section 42 and 50 of the N.D.P.S. Act and without F.S.L. report the petitioners have falsely been implicated under the N.D.P.S. Act.

Learned APP for the State, 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 F.S.L. report confirms that the recovered contraband is Charas.

The grant of bail in NDPS cases where the recovery of commercial quantity of narcotic is alleged is circumscribed under Narcotic Drugs and Psychotropic Substances Act, 1985, Section 37 which says that before grant of bail, the Court must have reason to believe that the petitioners have not committed the offence and in the event of release they would not commit similar offence.

The issue was considered by the Hon'ble Supreme Court in the case of **State of Kerala and Ors Vs. Rajesh & Ors**, reported in **2020(12) SCC 122** as well as in the case of **Narcotic Control Bureau Vs. Mohit Aggarwal** reported in



AIR 2022 SC 3444 and in the case of **Union of India Vs. Ajay Kumar Singh @ Pappu**, reported in **2023 SCC OnLine SC 346**.

The recovery of huge quantity of Charas from possession of the petitioners would not justify that the petitioners had no knowledge of the narcotic nor there is any material to substantiate that the petitioners would not commit such offence in the event of release.

Hence, I am not inclined to enlarge the petitioners on bail in connection with N.D.P.S. Case No.60 of 2019 arising out of Adapur P.S. Case No. 200 of 2019 pending in the court of learned 1st Additional Sessions Judge/ Special Judge, Motihari, East Champaran.

Prayer is refused.

(Rajesh Kumar Verma, J)

Nitesh/-

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