

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5709 of 2024

Arising Out of PS. Case No.-14 Year-2023 Thana- N.C.B (GOVERNMENT OFFICIAL)
District- Aurangabad

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1. Bhishma Narayan Tiwary @ Guddu Tiwary S/O Rambihari Tiwary R/O New Dillia, Ward No. 12, Near J.J. College, P.S- Town Thana Dehri, Distt.- Rohtas.
 2. Ramniranjan Chaturvedi @ Pappu Chaturvedi S/O Shiv Kumar Chaturvedi R/O Village- Madhopur, P.S- Natwar, Distt.- Rohtas.
 3. Thakur Shanni Pratap Singh @ Shanni S/O Shaturghan Singh R/O Gandhi Nagar, Ward No. 27, P.S- Dehri-On-Sone, Distt.- Rohtas.

... .. Petitioner/s

Versus

Narcotics Control Bureau, Patna Zonal Unit Cgo Complex, 4th Floor, D And E Block, Karpuri Thakur Sadan, Rajiv Nagar, Patna-800025.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Y.V. Giri, Sr. Advocate

Mr. Pranav Kumar, Advocate

For the Opposite Party/s : Mr. Awdesk Kumar Pandey, Sr. CGC

Mr. Arvind Kumar, CGC

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

4 08-05-2024 Heard learned counsel for the petitioners and learned APP for the UOI.

2. The petitioners seek bail in connection with NCB Case No. 14 of 2023 instituted for the offences under Sections 8(c), 20(b)(ii)(c), 25 & 29 of the NDPS Act.

3. Prosecution allegation, in short, is that there is recovery of 554 Kgs of ganja from truck bearing Reg. No.



JH09AD9827.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in the present case. The petitioners are in custody since 04-11-2023, and have got no criminal antecedent. Charge-sheet has been submitted in this case. There is no allegation of tampering of witnesses alleged against the petitioner. Learned counsel further submits nothing incriminating has been recovered from the conscious possession of the petitioners. It is also submitted that truck from which recovery is being made does not belong to the petitioners. Merely on the statement of the driver of the truck, petitioners have been dragged in this case.

5. Learned counsel for the UOI has vehemently opposed the prayer for grant of bail to the petitioner. Learned A.P.P. submits that recovered contraband is above the commercial quantity, hence, there is bar under Section 37 of the N.D.P.S. Act. Section 37 of the NDPS Act is reproduced hereinbelow:-

“[37. Offences to be cognizable and non-bailable.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for 3[offences under section 19



or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.]”

It is next submitted that in the self-confessional statement of the petitioners, they have accepted their guilt.

6. Considering the aforesaid facts and circumstances of the case and recovery of contraband beyond commercial quantity coupled with embargo under Section 37 of the N.D.P.S. Act and materials available on record, there are reasonable ground for believing that accused petitioners are guilty of offence and if they shall be enlarged on bail, they will commit such offence in future also, this Court is not inclined to grant bail to the petitioners.

7. The prayer is rejected.

8. The Trial Court is directed to expedite the trial as



expeditiously as possible without any undue delay and unnecessary adjournments.

(Rudra Prakash Mishra, J)

Raj Kishore/-

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