

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14631 of 2024

Arising Out of PS. Case No.-3 Year-2019 Thana- DHANGAI District- Gaya

1. Pappu Yadav @ Pappu Kumar Yadav (Male) aged about 30 years, Son of Nandu Yadav,
2. Vanvari Yadav, (Male) aged about 52 years, Son of Late Girdhari Yadav, Both resident of Village- Dhanawan Ps- Barachatti District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Binod Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 20-07-2024 Heard Mr. Sanjay Kumar Sinha, learned counsel appearing on behalf of the petitioners and Mr. Binod Kumar Singh, learned APP for the State.

2. The petitioners seek pre-arrest bail in connection with Dhangai P.S. Case No.03 of 2019 registered for the offence punishable under Sections 08/15/18(c)/25 of the NDPS Act.

3. Prosecution story, in brief, is that as per the written report of the informant S.I. Vidya Sharan Sah on 05.03.2019, a team was constituted for the destruction of cultivated opium plant at village- Barsudi. It is further alleged that informant got information that accused/petitioners along with other co-accused persons, who belong to another place, were suspected to be



engaged in illegal cultivation of opium. On this information, the police party reached at village- Barsudi and destroyed 08 acres of illegal cultivation of opium over different plots. A sample of opium plant was recovered and seizure list was prepared accordingly.

4. Learned counsel appearing on behalf of the petitioners submits that the alleged place of occurrence, where the opium plant were cultivated, is in the forest area. The petitioners belong to Barachatti police station and the place of occurrence is Barsudi police station, which is in forest area. The forest area is heavily guarded by the forest officers, but since the illegal cultivation of poppy came to the knowledge of general-public, the petitioners, who are from another village, were made accused merely on the basis of suspicion in the present case by the informant. The informant is a police officer and he has not named any forest officials, after being informed that the poppy plants were being cultivated in the forest area, as it appears from the FIR. He further submits that other similarly situated co-accused persons, namely, Sanjay Yadav and Kishun Yadav, have already been released on bail vide order dated 07.11.2023 passed in Criminal Miscellaneous No. 71364 of 2023. No material has been collected against the petitioners. On these



grounds, petitioners seek to be released on pre-arrest bail.

5. Learned APP for the State has vehemently opposed the prayer for grant of pre-arrest bail, however, he admits that the forest officials has not been named in the FIR.

6. Considering the rival submissions made on behalf of the parties, as well as, the allegations made in the FIR, which is on the basis of secret information gathered by the informant, who is a police officer, it has not been disclosed in the FIR whether such information was given to the informant by any of the forest officer, rather it appears that without obtaining the direction of the concerned competent authority, steps were taken by the police. Suspicion has been raised against the petitioners' involvement in the alleged offence of cultivation of poppy plants in the forest area. No recovery has been made from the house of the petitioner and the petitioner has been made accused in the present case on the basis of suspicion, the law is well settled in this regard that a strong suspicion, howsoever, cannot take the place of proof and for suspicion and under-trial cannot be kept behind the bar, even after completion of investigation. I am of the opinion that petitioners have, *prima facie*, made out a case to be released on pre-arrest bail.

7. The petitioners, above named, are directed to be



released on pre-arrest bail, in the event of their arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned Sessions Judge, Gaya in connection with Dhangai P.S. Case No.03 of 2019 dated 06.03.2019, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

8. The Court below is directed to verify the criminal antecedent of the petitioners as stated in paragraph no. 3 of the bail application. If any other case is pending against the petitioners as what has been stated in paragraph no. 3, this order will lose its force automatically.

(Purnendu Singh, J)

Niraj/-

U		T	
---	--	---	--

