

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20232 of 2024

Arising Out of PS. Case No.-184 Year-2023 Thana- SARAI District- Vaishali

Rakesh Kumar Singh SON OF SHRI SUDAMA SINGH RESIDENT OF
VILLAGE- MAKHADUMPURPUR, PS- BIHIYA, DISTT- BHOJPUR
... .. Petitioner/s

Versus

1. The State of Bihar
2. THE ECONOMIC OFFENCE, DEPTT. BIHAR PATNA BIHAR
... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 20344 of 2024

Arising Out of PS. Case No.-184 Year-2023 Thana- SARAI District- Vaishali

Munna Singh SON OF SHRI SHIVAJI SINGH RESIDENT OF VILLAGE-
BAGEN, RAGHUNATHPUR, PS- BAGENGOLA, DISTT- BUXAR
... .. Petitioner/s

Versus

1. The State of Bihar
2. THE ECONOMIC OFFENCE, DEPTT. BIHAR, PATNA BIHAR
... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 20232 of 2024)

For the Petitioner/s : Mr.Ganga Prasad Bimal
For the EOU : Mr. VNP Sinha, Sr. Adv.
: Mrs. Soni Shrivastava, Adv.
For the Opposite Party/s : Mr.Dr.Mrityunjaya Kr.Gautam

(In CRIMINAL MISCELLANEOUS No. 20344 of 2024)

For the Petitioner/s : Mr.Ganga Prasad Bimal
For the EOU : Mr. VNP Sinha, Sr. Adv.
: Mr. Vijay Anand, Adv
For the Opposite party : Mr.Sanjay Kumar Tiwary :

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

- 5 04-07-2024 Heard the learned counsel for the parties.
2. The petitioners are seeking regular bail in
connection with NDPS No. 38 of 2023 arising out of Sarai P.S.
Case No. 184 of 2023, registered for the offences punishable



under Sections 20(b) (ii) (B), 23(c) and 27 (B) of the NDPS Act.

3. As per allegation, the police received a secret information that some ganja smugglers were coming with ganja from Dimapur (Nagaland) by train and they were to supply the same to Ara through Patna. Then, the police official swung into action and conducted raid, but the accused persons on seeing the police personnel started fleeing away. However, they were apprehended with the help of police force and they disclosed their names as Ritesh Kumar, Raj Kishore Yadav, Rakesh Kumar Singh and Munna Singh. On search, the police personnel recovered 104 kg ganja from the possession of the petitioners and other co-accused persons.

4. The learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated and made scapegoat in these cases. No incriminating article or contraband was recovered from their possession. He has further submitted that the FIR itself shows that no sampling was done at the place of occurrence. He has also submitted that the investigating authorities submitted the charge-sheet without obtaining FSL report. He has next submitted that in Case of *Ram Babu Yadav Vs. The State of Bihar in Criminal Miscellaneous No. 21326 of 2021* a co-ordinate Bench of this



Court has observed that submission of charge-sheet in absence of FSL report merely because the Investigating Officer felt that the accused would get the benefit of default bail under Section 167(2) of the CrPC, amply reflects that the Investigating Officer was not aware of the provisions relating to NDPS Act and was completely oblivious of Section 36A(4) of the NDPS Act, and submission of charge-sheet in absence of FSL report does not justify the incarceration of the accused.

5. On the other hand, the learned Senior counsel Mr. V.N.P. Sinha for the Economic Offences Unit opposed the prayer for bail and submitted that a huge quantity of *Ganja* was recovered from possession of the petitioners and merely because non-submission of the FSL report does not make the petitioners entitled to get the privileges of bail. He has submitted further that non-submission of charge-sheet in absence of FSL report is not an erroneous charge-sheet, rather it is an incomplete charge-sheet.

6. The investigating authority submitted charge-sheet without FSL report so still it has not been determined whether the seized article is narcotic drug or psychotropic substance. No body can be put behind the bar for indefinite time without confirming that the seized article is psychotropic substance.



7 Considering the above-mentioned facts and circumstances, let the petitioners above-named be released on bail on furnishing bail bonds of Rs.10,000/- each, with two sureties of the like amount each, to the satisfaction of learned Additional Sesions Judge-I-cum Special Judge NDPS Vaishali at Hajipur in connection with NDPS No. 38 of 2023 arising out of Sarai P.S. Case No. 184 of 2023, subject to the following conditions:-

- (i) The petitioners shall cooperate in the disposal of the trial and make themselves available on each and every date fixed at the trial, and if they fail to appear on two consecutive dates, without any reason or unavoidable circumstances, the learned court below shall be at liberty to cancel their bail bonds.
- (ii) Before release of the petitioners, the learned court below shall verify their criminal antecedents.

(Nawneet Kumar Pandey, J)

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