

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41016 of 2024

Arising Out of PS. Case No.-217 Year-2023 Thana- SURSAND District- Sitamarhi

Shashi Kumar Singh son of Ramesh Singh Village- Chand Parsa Ps-
Keshariya Dist- East Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 46932 of 2024

Arising Out of PS. Case No.-217 Year-2023 Thana- SURSAND District- Sitamarhi

SUKHARI RAUT S/O- VISHWANATH RAUT R/O VILL.- CHAND
PARSA, P.S.- KESHARIYA, DIST.- EAST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 41016 of 2024)
For the Petitioner/s : Mr.Dhannjay Kumar, Adv.
For the Opposite Party/s : Mr.Lalan Kumar, APP
(In CRIMINAL MISCELLANEOUS No. 46932 of 2024)
For the Petitioner/s : Mr.Dhannjay Kumar, Adv.
For the Opposite Party/s : Mr.Satyendra Narayan Singh, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

4 19-09-2024 Heard learned counsel for the petitioners and

learned A.P.P for the State.

2. The petitioners have preferred this application for
grant of regular bail in connection with Sursand P.S. Case No.
217/2023 dated 30.04.2023 registered for the offence
punishable u/s 414 of the Indian Penal Code and Sections



8(C), 20(b)(ii)(C) and 29 of the N.D.P.S. Act.

3. As per the prosecution case, while the informant along with other police force was on patrolling duty at NH 227 and was checking the vehicle, a four wheeler came from the side of *Bhitha* which was stopped by the informant. On search, 2 kg *charas*, mobile phones and cash were recovered from the seized vehicle (Mahindra SUV) and the petitioner and the co-accused persons were found sitting inside the said vehicle.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioners. Learned counsel has submitted that the family members of the petitioners and the co-accused persons have filed a Cr.W.J.C No. 1290 of 2023 for issuance of an appropriate writ order or direction to make a proper investigation and take legal action against the concerned police officer who have illegally took their inmates along with S.U.V. vehicle bearing registration no. BR-05AS-1539 on 28.04.2023 at 4 P.M. and by lodging the false F.I.R. dated 30.04.2023. The petitioners have no concern with the alleged recovery. The petitioner Shashi Kumar Singh has three criminal antecedents whereas the petitioner Sukhari



Raut has two criminal antecedents as stated in para 3 of the bail petition. The petitioners are in custody since 01.05.2023.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioners. It is further submitted that the petitioners were one of the occupants of the said vehicle and was arrested on the spot. It is further submitted that the seized contraband is commercial quantity i.e., 2 kgs of *charas* and the petitioners had no valid authorization for keeping the same.

As per Section 37 of the N.D.P.S. Act, the two conditions are that the Court should be satisfied with :-

(i) There are reasonable grounds for believing that the accused is not guilty of such offence; and

(ii) He is not likely to commit any offence while on bail.

If either of these two conditions is not satisfied, the bar operates and the accused cannot be released on bail. The Court is of the opinion that the parameters of bail available under Section 37 of the Act have not satisfied in the facts of the instant case.

The Hon'ble Supreme Court in the case of ***Narcotics Control Bureau v. Mohit Aggarwal 2022 SCC***



OnLine SC 891 has held that “*The length of the period of his custody or the fact that the charge-sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief to the respondent under Section 37 of the N.D.P.S. Act.*”

6. Considering the aforesaid facts and circumstances of the case as well as the finding substance in the contention of learned counsel for the State and the recovery of commercial quantity from the conscious possession of the petitioners, this Court is not inclined to grant bail to the petitioners and the same is rejected in connection with Sursand P.S. Case No. 217/2023 pending in the court of learned Special Judge, Sitamarhi.

7. The application stands rejected.

(Chandra Prakash Singh, J)

Gautam/-

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

