

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48729 of 2024

Arising Out of PS. Case No.-74 Year-2023 Thana- BARACHATTI District- Gaya

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Ganesh Yadav Son of Chandra Yadav Resident of Village - Badki Chapi
(Jalgeer), Panchayat - Bhalua, P.S.- Barachatti, District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gajendra Kumar Singh, Advocate

For the Opposite Party/s : Mr. Md. Aslam Ansari, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 10-09-2024 1. Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 8(b), 18
and 29 of the NDPS Act.

3. Learned counsel for the petitioner submits that
petitioner is a person with clean antecedent.

4. The informant alleges that the accused persons
including the petitioner are involved in cultivation of opium
over 37.40 acres of forest land and 10.70 acres of non-forest
land. Further, non-forest land belongs to the accused persons as
detailed in the FIR as per report of the office of the Circle
Officer.

5. Learned counsel for the petitioner submits that the
allegation is in two parts i.e. opium was found cultivated on



forest as well as non-forest land. It is further submitted that as far as raiyati land is concerned, the allegation is against Sideshwar Yadav, Raman Yadav, Prameshwar Yadav, Kishun Yadav and Sikar Bhuiya. It is next submitted that petitioner came to be implicated in the instant case on an allegation that when the team went to destroy the opium found cultivated on forest land the accused persons fled away and the villagers disclosed the name of the petitioner along with Vijay Bhuiya. It is thus submitted that it is not the case of the prosecution that petitioner was involved in cultivation of the opium over the raiyati land. It is further submitted that the opium was found planted on forest land. It is next submitted that it is the forest officials in connivance indulge in farming of opium and when the fact comes to the notice of the superior officials innocent people are implicated who reside adjacent to the forest area. It is also submitted that it absolutely does not stand to reason that how opium was found cultivated on such huge area of forest land and the forest authorities, who keep surveillance of the forest, were not aware of the said fact. It is further submitted, at the cost of the repetition, that petitioner is a person with clean antecedent and has been implicated in the instant case based on an allegation that the villagers disclosed his name but then the



name of the villager is also not disclosed in the FIR that as to who disclosed the name of the petitioner which casts an aspersion on the case of the prosecution when it is not the case of the prosecution that based on secret information, the name of the petitioner transpired in the case. It is next submitted that if the police investigate the case properly the real culprits would come to the fore including the officials of the forest department. It is also submitted that when opium on the forest land was required to be destroyed that amply demonstrates that the plant had grown and as such it cannot be presumed that the Ranger and other officials associated with surveillance of the forest were not aware that opium has been planted over such big chunk of forest land.

6. The submissions made on behalf of the petitioner are not without merits.

7. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner but then is not in a position to rebut the submissions of the learned counsel appearing on behalf of the petitioner that petitioner came to be implicated based on disclosure made by the local villagers that he was involved in the cultivation of opium over the forest land but then the learned A.P.P. fairly submits that when the forest



officials are deputed for keeping surveillance over the forest land as such their role should also be looked into but then submits that if privilege of anticipatory bail is granted to the petitioner in that event the petitioner may abscond on which learned counsel appearing on behalf of the petitioner submits that petitioner will not abscond rather will cooperate in the investigation.

8. Considering the submissions made by the learned counsel for the petitioner, let the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty-five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Barachatti P.S. Case No. 74 of 2023, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

9. However, it is made clear that if the investigating officer of the case files an application bringing to the notice of the learned court below that petitioner despite giving assurance to this Court is not cooperating in the investigation, the learned court below shall be at liberty to cancel the bail bonds of the



petitioner after recording reasons.

10. It is further made clear that if charge-sheet is submitted connecting the petitioner with the offense in that event the present anticipatory bail order shall lose its effect.

11. Let a copy of this order be communicated to the Senior Superintendent of Police, Gaya for his perusal and for investigating the case in its correct perspective and to ensure that no innocent person is implicated.

(Satyavrat Verma, J)

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