

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49515 of 2023

Arising Out of PS. Case No.-231 Year-2021 Thana- AMBA District- Aurangabad

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1. Ali Raja Alam Son Of Ahmad Husan R/O-Bajaraaha, Ward No. 15, P.S.-DERNI, Distt.-SARAN, Pin 841222
 2. Bittu Kumar Sharma Son Of Gauri Sharma R/O-Derni, Ward No. 9, P.S.-DERNI, Distt.-SARAN, Pin 841222

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binay Krishna, Advocate

For the Opposite Party/s : Mr. Madhuri Lata, APP

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

12 02-08-2024 Perused the show cause reply submitted by 1st

Additional Sessions Judge-cum-Special Judge, NDPS Act, Aurangabad in which the learned trial court has categorically stated that only one witness of the prosecution is left to be examined.

2. Heard learned counsel for the petitioners and learned A.P.P. for the State.

3. The petitioners seeks bail in connection with Amba P.S. Case No. 231 of 2021 dated 28.12.2021, instituted for the offence punishable under Sections 8, 20(b)C, 25, 29 of the NDPS Act, 1985.

4. The prosecution case, in short, is that the informant



got secret information on 28.12.2021 at about 06:30 am that huge quantity of illegal Ganja is coming from Pickup van bearing registration no. CG25C 9072 from Chattisgarh via Aurangabad. The informant on getting the said information proceeded with the team of the department and started search near Hostana Hotel on NH- 139, PS- Amba, District- Aurangabad. The informant noticed that one Pickup van bearing same registration no. is trying to flee away, but was caught on the spot. On search, 323.55 Kg illegal Ganja was recovered from the said vehicle. Both the petitioners were found present in the vehicle along with illegal Ganja.

5. Learned counsel for the petitioners submits that the petitioners are innocent and they have been falsely implicated in this case. It is further submitted that petitioners have no concern with the recovered articles. The petitioners got down from another vehicle at Dostana Hotel to take breakfast where the police came and arrested them. Further submission is that there is no independent witness of the seizure list. It is further submitted that while rejecting the prayer of the petitioners for bail on 28.09.2022, the trial court was directed to conclude the trial within a period of nine months and liberty was granted to the petitioners to renew the prayer if the trial is not concluded



within nine months. It is further submitted that the petitioners are in custody since 29.12.2021 and till date trial has not been concluded and there is no likelihood of the conclusion of trial in near future. Learned senior counsel has relied on various decision of this Court as well as Hon'ble Apex Court in support of his argument that the petitioner deserves to be released on bail in view of the fact that the FSL Report was not filed along with charge-sheet and it was filed after a long delay.

6. On going through the different order(s)/judgment(s) referred to by learned senior counsel for the petitioners, this Court finds that the recovery of contraband in those cases were much less than this case. In this case, there is recovery of huge quantity i.e. 323.55 Kg Ganja.

7. Learned A.P.P. has opposed the prayer for bail of the petitioners.

8. From the show cause submitted by 1st Additional Sessions Judge-cum-Special Judge, NDPS Act, Aurangabad, it is evident that only one witness of the prosecution is left to be examined.

9. Considering the fact that huge quantity of Ganja i.e. 323.55 kg was recovered from the vehicle in which the petitioners were present and only one witness is left to be



examined, I am not inclined to grant bail to the petitioners.

10. Accordingly, the prayer for bail of the petitioners is rejected.

11. The Trial Court is directed to conclude the trial positively within a period of six months from the date of receipt/production of a copy of this order even by fixing the case on day to day basis. If the trial is not concluded within the same period, the Court below shall explain the reason for concluding the trial within the time frame.

(Khatim Reza, J)

Sankalp/-

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