

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67401 of 2024

Arising Out of PS. Case No.-277 Year-2024 Thana- SURSAND District- Sitamarhi

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1. Santosh Kumar S/o- Nawal Ray @ Nawal Kishore Ray, Resident of Village- Suryapatti, Ward No 10, PS - Pupri, District- Sitamarhi.
 2. Kaushal Kumar Son of Jagarnath Patel, Resident of Village- Suryapatti, Ward No. 10, P.S.- Pupri, Distt.- Sitamarhi.

... .. Petitioners

Versus

1. The Union of India through Director Narcotic Drugs and Psychotropic Substance Department, New Delhi.
2. The State of Bihar.

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Birendra Kumar, Advocate
For the Opposite Party : Mr. AC to AG

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 25-09-2024 Heard Mr. Birendra Kumar, the learned counsel for the petitioners and the learned Additional Public Prosecutor for the State.

2. Petitioners seek regular bail and petitioners are in custody since 11.06.2024, in connection with Sursand P.S. Case No. 277 of 2024, FIR dated 10.06.2024, registered for the offences punishable under Sections 399 and 402 read with Section 34 of the Indian Penal Code and under Section 25(1-b)a, 26 and 35 of the Arms Act and also under Sections 8, 20(b)(ii) (A) of the NDPS Act.

3. According to the prosecution case, after receiving



confidential information that some miscreants are making plan for committing crime at Srikhandi Bhitha, the informant along with other police personnel reached at the alleged place and apprehended the petitioners and other co-accused persons. It is further alleged that from the possession of apprehended co-accused persons a plastic pistol, a knife, mobiles with SIM along with *ganja* were recovered.

4. Learned counsel for the petitioners submits that petitioners have falsely been implicated in the present case. He further submits that from perusal of FIR, it appears that one knife and three mobile phones have been recovered from petitioner no. 2 while one plastic manufactured lite pistol has been recovered from the possession of petitioner no. 1 and narcotics (*ganja*) has been recovered from the possession other co-accused persons. He further submits that the quantity of recovered contraband is less than the commercial quantity, hence, there is no embargo under Section 37 of the NDPS Act to enlarge the petitioners on bail. He lastly submits that the police after investigation has submitted the chargesheet against the petitioners and the petitioners are in custody since 11.06.2024.

5. The learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for



bail of the petitioners and submits that petitioner no. 1 carries two criminal antecedents other than the present, however, he fairly admits that petitioner no. 1 has been acquitted in one case and he is on bail in another case while petitioner no. 2 has clean antecedent.

6. Considering the aforesaid facts and circumstances and mainly the facts that no incriminating articles have been recovered from the possession of the petitioners, let the petitioners, above-named, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees ten Thousand only) each with two sureties of the like amount each to the satisfaction of the learned Sessions Judge-cum-Special Judge, NDPS, Sitamarhi, in connection with **Sursand P.S. Case No. 277 of 2024**, subject to the following conditions:

(i). Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the learned trial Court and shall remain physically present as directed by the learned trial Court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the learned trial Court.

(ii). If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to



move for cancellation of bail.

(iii). And further condition that the learned trial Court shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the learned trial Court shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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