

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2281 of 2024

Arising Out of PS. Case No.-237 Year-2023 Thana- BARGAINIA District- Sitamarhi

1. Sanjeev Kumar Sah @ Sanjeev Sah S/O- Ganesh Sah R/O- Village- Shivnagar, P.S.- Garura, Dist.- Rothat (Nepal)
2. Dilip Kumar Sah @ Dilip Sah S/O- Mewalal Sah R/O- Village- Shivnagar, P.S.- Garura, Dist.- Rotat (Nepal)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Jha, Adv.

For the Opposite Party/s : Mr.Anil Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

4 10-04-2024 Heard learned counsel for the petitioners and learned APP for the State.

2. The petitioners seek bail in connection with Bairganiya P.S. Case No. 237 of 2023 instituted for the offences under Sections 8/20(b)(ii) (B)/22/23 of the N.D.P.S. Act.

3. Prosecution case, in short, is that total 10.5 Kg. Ganja, one motorcycle and one mobile were recovered from the possession of the petitioners.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have committed no offence as alleged against them and have falsely been implicated in the present case. He further submits that the quantity of Ganja



recovered is less than the commercial quantity. Hence, Section 37 of the N.D.P.S. Act is not applicable in the present case. There is no compliance of Section 42 and 50 of the N.D.P.S. Act. The petitioners have no concern with the seized Ganja or the alleged motorcycle. He further submits that the recovery has been made on 06.10.2023 but, the F.I.R. was lodged on 07.10.2023 which falsifies the prosecution case. The petitioners have no criminal antecedent as has been stated in paragraph no.3 of the present bail application. There is a non-compliance of Section 100 of the Cr.P.C. which creates a serious doubt in the prosecution case. The petitioners are languishing in judicial custody since 07.10.2023.

5. Learned counsel for the petitioners again submits that the co-accused Sandeep Kumar has been granted bail by this Court vide order dated 21.02.2024 passed in Cr. Misc. No. 9045 of 2024.

6. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioners submitting that the witnesses during course of investigation have supported the prosecution case.

7. Having heard rival contention of both the parties and considering the entire facts and circumstances of the case as



also taking into account the period of custody of the petitioners and the petitioners having no criminal antecedent as also the claim for bail based on parity, let the petitioners, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Bairganiya P.S. Case No. 237 of 2023.

(Rudra Prakash Mishra, J)

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