

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86603 of 2023

Arising Out of PS. Case No.-439 Year-2023 Thana- BATHNAHA District- Sitamarhi

1. Radheshyam Sah S/o Late Yogendra Sah R/o Village - Kishanpur ward No. 11, P.S. Bathnaha, Distt- Sitamarhi
2. Bimal Kumar @ Bimal Sah S/o Radheshyam Sah R/o Village- Kishanpur ward No. 11, P.S.- Bathnaha, Distt. Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Advocate

For the Opposite Party/s : Mr. Pushpa Sinha.1, APP

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

2 24-01-2024 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners apprehend arrest in connection with Bathnaha P.S. Case No. 439 of 2023 dated 09.10.2023 instituted for the offence punishable under Sections 8/20(b)(ii) (B)/22(B)/23(B) of the N.D.P.S. Act.

3. The prosecution case, in short, is that on 09.10.2023 at about 17.30 hrs., 4 kg. *Ganja* like substances has been recovered from the possession of co-accused, namely, Dharmendra Kumar Mahto, who, at that time, was selling the same at the house of the petitioners.

4. 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 on the same day, another F.I.R. was lodged bearing Bathnaha P.S. Case no. 440 of 2023 under Section 30(a) of the Bihar Prohibition and Excise Act against the petitioners for recovery of 2 litres foreign liquor (beer) from their house. Learned counsel for the petitioners submits that petitioners have no concern with the alleged recovery of *Ganja* like substances which was recovered from the possession of the Dharmendra Kumar Mahto. Learned counsel for the petitioners submits that neither the petitioners nor their family members were present in the house and on that basis it is stated that the petitioners have no hand in the alleged crime. True fact is that Dharmendra Kumar Mahto entered the house of the petitioners in order to save himself from the police when he was chased, and only on this basis, the petitioners have been implicated in this case. It is further submitted that petitioners have been made accused in this case only on the basis of the disclosure made by the said Dharmendra Kumar Mahto. Lastly, it has been submitted that petitioner no. 1 has two criminal antecedents while petitioners no. 2 has one criminal antecedents.

5. Learned A.P.P. has opposed the prayer for



anticipatory bail of the petitioners.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest / surrender of the petitioners within a period of six weeks from today, in connection with Bathnaha P.S. Case No. 439 of 2023, they shall be released on anticipatory bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Sessions Judge cum Special Judge, NDPS, Sitamarhi, subject to condition as laid down under Section 438(2) of the Cr.P.C, as well as the following conditions:-

I. Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and on their absence on two consecutive dates without sufficient reason, their bail bonds shall be cancelled by the Court below.

II. One of the bailors will be their own blood relation, preferably father, mother, brother, sister and or his wife.

III. The bailor shall also state on affidavit that they will inform the court concerned if the petitioners are made accused in any other case of similar



nature after their release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

IV. 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.

(Khatim Reza, J)

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