

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2049 of 2025

Arising Out of PS. Case No.-25 Year-2024 Thana- HARPUR District- East Champaran

1. Anu Kumar S/O Ram Adhoya Mahto Resident of village- Koriya Tola, P.S- Raxaul, District- East Champaran.
2. Sagar Kumar S/O Ganesh Prasad R/O Village- Prewa, P.S- Raxaul, Distt.- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Tapeswar Sharma, APP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

2 23-01-2025 Heard learned counsel for the petitioners and learned APP for the State.

2. The petitioners seek bail in connection with Harpur P.S. Case No. 25 of 2024, instituted for the offences punishable under Section 317(5) of the Bharatiya Nyaya Sanhita, 2023, Sections 8, 20(b)(ii)(B) of the NDPS Act.

3. Prosecution allegation, in short, is that there is recovery of 260 gm *charas* and one motorcycle from the possession of these petitioners.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in the present case. No incriminating material has been recovered from



the conscious possession of the petitioners. Learned counsel for the petitioners further submits that the petitioners have got no concern with the alleged recovery of *charas*. The petitioners are not the owners of the motorcycle in question, rather the same has been taken from the friend of petitioner no. 1. The petitioners were passerby of that way and on the basis of suspicion they were arrested by the police. The recovered contraband is below the commercial quantity. Hence, Section 37 of the N.D.P.S. Act is not applicable in the present case. The petitioners are in custody since 24.08.2024. Petitioner no. 1 has got no criminal antecedent and petitioner no. 2 has got five criminal antecedents in which he is on bail in all cases. There is no compliance of Sections 42 and 50 of the N.D.P.S. Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioners.

6. Considering the aforesaid facts and circumstances of the case, the recovered contraband being below the commercial quantity and the period of custody undergone by the petitioners, this Court is inclined to grant bail to the petitioners.

7. Let the petitioners 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 Harpur P.S. Case No.
25 of 2024, subject to the following conditions:

(I) One of the bailors shall be own/close member of
the family of the petitioners.

(II) The petitioners shall appear on each and every
date fixed at the trial. In case of default in such appearance on
two consecutive dates, the Trial Court will have liberty to cancel
the bail bonds of the petitioners.

(Rudra Prakash Mishra, J)

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