

**In the court of 1st District and Additional Sessions Judge-cum-Special
Judge (NDPS) Act, Aurangabad.
GR (NDPS) Case No. 32/2023 and CIS No. 02/2024
NCB Crime Case No. 14/2023**

13.11.2024

The petitions filed under Section 227 of the Criminal Procedure Code, 1973 of dated 29.07.2024 on behalf of the accused/petitioner **Ajay Kumar Setthi @ Pinku**, son of Uttam Kumar Setthi, resident of Tehsil Colony, Reghakhhol, PS - Reghakhhol, District - Sambhalpur, State - Odisha and of dated 11.09.2024 on behalf of the accused/petitioner **Thakur Shanni Pratap Singh @ Shanni** for discharge are posted today for passing order. The rejoinders of dated 17.08.2024 and of dated 20.09.2024 respectively are well with the file. The parties have already been heard.

The learned counsel for the accused persons/applicants noted as above by their respective separate petitions had tried to stress upon that the learned Court has mechanically without scrutinizing the facts and material collected during the course of investigation has taken cognizance. They submitted that taking of cognizance and the framing of charge both are quite different from each other and cognizance if taken may not necessarily be a state to frame charge and before framing of charge the material collected during the course of investigation are quite necessary to be taken notice of before the framing of charge. They submitted that there is hardly any such material, collected during the course of investigation, which may fall in the ambit of the evidence against the accused persons/petitioners wherein their participation in murder of the deceased may be seen and on the basis of mere suspicion charge cannot be framed. The learned counsel added too that circumstantial evidence which makes a chain can hardly be basis to frame charge. Negating the attendance of the accused persons/petitioners at the time of the occurrence i.e. involvement in the matter the learned counsel have pressed upon that it is a good case for discharge and has prayed to discharge the accused persons/petitioners praying so.

Per-contra, the learned Special Public Prosecutor praying for the state has narrated the whole journey of investigation and showing the recovery of huge quantity of contraband from the persons involved showing the well proved involvement of the accused persons/petitioners. It has been prayed that such petitions have been filed on behalf of the accused persons/petitioners in order to linger and weaken the case of the prosecution, by dawdling the time of the Court. He added that the Court has rightly taken cognizance against the accused persons/petitioners and has prayed to reject their prayer.

After having a glimpse over the prayers of the accused persons/petitioners and the contentions appeared during the argument including material available with the file, it appear that this court has taken cognizance against these accused persons/petitioners after considering the material so collected during the course of investigation and there is nothing either in the file or in the petition of the accused persons/petitioners which may lead to show this court to opine differently. As such the prayers under Section 227 of the Criminal Procedure Code, 1973, the petitions of dated 29.07.2024 on behalf of the accused/petitioner **Ajay Kumar Setthi @ Pinku** and of dated 11.09.2024 on behalf of the accused/petitioner **Thakur Shanni Pratap Singh @ Shanni** are **rejected** and the accused persons are ordered to be in attendance on the next date for hearing charge.

(Dictated)

1st Distt & Addl. Sessions Judge-cum-
Special Judge (NDPS) Act, Aurangabad
Dated: 13.11.2024