

Court of Additional Sessions Judge Ist, Gaya
N.D.P.S. Case No. 28/2021

12.09.2022 Bail petition dated 25.08.2022 filed on behalf of petitioners Govind Kumar Yadav and Devlal Bhuiyan in Amas P.S. Case No. 57/2021 who are in custody in this case since 05.03.2021 u/s 8, 17(c), 18(c) of N.D.P.S. Act is pressed by their learned counsel.

Heard learned counsel for the petitioners and the learned special P.P. for the State.

Case of the prosecution, in brief, as per written report of the occurrence is that on 04.03.2021 at about 14:15 O'clock, S.H.O. Anil Kumar Singh of Amas P.S. has received confidential information that two persons Govind Kumar Yadav and Devlal Bhuiyan are going to Delhi from Sherghati by "Singh Lok Bus" bearing No. BR 26K-4200 on sleeper seat No. 3(B) and 4(B) carrying with Afim, then after registering Sanha, informant informed the senior officer about this. After that he requested the B.D.O. Sri Ramesh Kumar Singh of Amas to assist as Magistrate. On this information, B.D.O. Sri Ramesh Kumar Singh with informant as well as deputed constables in police station, constable 2693 Shivji Kumar, constable 2673 Sundan Kumar, constable 2691 Dharmendra Kumar reached at Amas Toll Plaza and stopped the aforesaid bus and searched the said bus before two independent witnesses namely Manoj Singh and Birendra Yadav. They found that two persons are sleeping on sleeper's seat of the said bus with plastic bag. Police party asked about the plastic bag. They did not give satisfactory reply and police party checked the plastic bag which was kept in Jholi (Bag) and found wet Afim in two plastic bags from the possession of petitioner Govind Kumar Yadav containing one Kg. (1 Kg.) in each bag, total 2 Kg. was recovered and he also disclosed his name as Govind Kumar Yadav and one touch screen mobile phone of red colour of OPPO Company, which IMEI No. 865577049427652, 865577049427645, containing mobile No.9905692776 in running condition and Rs.340 cash kept in old purse, A.T.M. CARD No.6521636456003324 and Aadhar card of Govind Kumar Yadav were recovered from possession of Govind Kumar Yadav (petitioner). After that, from possession of accused Devlal Bhuiyan (petitioner), who was sleeping in seat No. 3(B), packet of wet Afim which was kept in two polythenes, containing 1.250 Kg. in each polythene total 2.5 Kg. was recovered. From the pocket of Jeans pant of Devlal Bhuiyan, touch screen mobile phone of M.I. Company, IMEI No. 86616047693755, 866616047693763 containing mobile No. 6203801168 and cash Rs.230/- from pocket of his pant and

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ticket from Sherghati to Delhi of “Singh Lok Bus” was also recovered. Police arrested the above said accused persons and prepared a seizure list.

It has been submitted on behalf of the petitioners that earlier the petitioners have got moved the regular bail before the Sessions Judge, Gaya and also before the Hon’ble High Court, Patna and the same were rejected by the Hon’ble High Court on 10.03.2022 vide Criminal miscellaneous No. 46420/2021 of Govind Kumar Yadav and Criminal Misc. No. 46059/21 of Devlal Bhuiyan. It is further submitted that the petitioners are quite innocent, committed no offence and have been falsely implicated in this case. It is further submitted that the petitioners were not arrested on the spot and nothing has been recovered from their conscious possession and police have taken the signature of the petitioners on the plane paper by undue influence. It is further submitted that the petitioner has no criminal antecedent nor any criminal case is pending anywhere. Lastly, he submitted that the petitioners are languishing in custody since 05.03.2021, so they may be released on bail.

Learned Special P. P. vehemently opposed the prayer for bail and submitted that huge quantity of opium was recovered from possession of petitioners.

Having heard the learned counsel for the petitioners as well as the learned Special P.P. for the State and from perusal of record, it transpires that the petitioners are in custody since 05.03.2021. The petitioners are named in F.I.R. From perusal of the case record, it reveals that from the possession of petitioner Govind Kumar Yadav 2 Kg. Afim and from the possession of petitioner Devlal Bhuiyan 2.5 Kg. Afim, total 4.5 Kg. Afim was recovered which pertains to commercial quantity. Earlier bail petition of the petitioners was rejected by the Sessions Judge, Gaya on 04.06.2021 and the bail petitions of the petitioners were also rejected by the Hon’ble High Court, Patna on 10.03.2022 vide Criminal miscellaneous No. 46420/2021 of Govind Kumar Yadav and Criminal Misc. No. 46059/2021 of Devlal Bhuiyan. The charge-sheet against the petitioners has been filed. It comes under the

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perview of section 37 of N.D.P.S. Act, 1985.

Thus, considering the fact and circumstances of the case and nature of allegation against the petitioners, I am not inclined to enlarge the petitioners on bail. Hence, the prayer for bail of the petitioners is hereby rejected.

(Dictated)

Sd/-

Additional Sessions Judge Ist, Gaya

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