

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

First Bail Application No.618 of 2020

Mangal SinghApplicant

Vs.

State of UttarakhandRespondent

With

First Bail Application No.619 of 2020

Harendra BishtApplicant

Vs.

State of UttarakhandRespondent

Present:-

Mr. Lalit Sharma, learned Advocate for the applicants.

Mr. G.S. Sandhu, learned Government Advocate assisted by Mr. Balvinder Singh, learned Brief Holder for the State of Uttarakhand.

Hon'ble Alok Kumar Verma, J

These First Bail Applications have been filed for grant of regular bail in connection with the F.I.R. No.114 of 2020, registered with Police Station Ramnagar, District Nainital. The learned Special Judge (N.D.P.S. Act), Nainital rejected the bail applications under Section 8-B/20 of the Narcotic Drugs and Psychotropic Substances Act, 1985. These bail applications are related to one F.I.R., therefore, both these bail applications are consolidated to decide by this common order.

2. Heard learned counsel for the applicants and learned counsel for the State of Uttarakhand.

3. Facts, to the limited extent necessary, are that on 01.03.2020, Mr. Manoj Singh Nayal, Sub-Inspector, received an information by the informer that illegal Ganja (contraband) was carrying in a Bus No.UK04PA 0587. On this information,

the said Bus was directed to stop by Mr. Manoj Singh Nayal and other police officials. Both the applicants were travelling in the bus. On the identification of the conductor of the bus, 34 kg and 856 gram Ganja was recovered from the bags of both the applicants in front of the Circle Officer of the Police at about 14:35 hour. The said contraband was kept in the Dikky of the Bus.

4. The learned counsel for the applicants submits that the applicants are innocent persons; the applicants have been falsely implicated; the applicants have no criminal history; the applicants are residents of District Almora and District Nainital respectively; the alleged recovery was joint recovery; the provisions of Sections 50, 42 and 57 were not complied with; the applicants are in custody since 01.03.2020.

5. In the light of the COVID-19, the bail applications are not seriously opposed by the learned counsel for the State and the learned counsel for the State of Uttarakhand submits that in the joint recovery, none of the applicants had possessed commercial quantity of the Ganja (contraband) and the applicants have no criminal history.

6. The bail is the rule and committal to jail is an exception. Refusal of the bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution of India. In the case of **Siddharam Satlingappa Mhetre vs. State of Maharashtra, (2011) 1 SCC 694**, the Hon'ble Apex Court has observed that the personal liberty is very precious fundamental right and it should be curtailed only when it becomes imperative according to the facts and circumstances of the case.

7. In the facts and circumstances of this case, there is no reason to keep the applicants behind the bars for an indefinite period.

8. Having considered the submissions of learned counsel for both the parties and facts and circumstances of the case, without expressing any opinion as to the merits of the case, this Court is of the view that the applicants deserve bail at this stage.

9. The bail applications are allowed.

10. Let the applicants be released on bail on their executing a personal bond and furnishing two reliable sureties, each in the like amount, by each of them, to the satisfaction of the court concerned.

(Alok Kumar Verma, J.)

24.03.2020

Sanjay