

IN THE HIGH COURT OF JHARKHAND AT RANCHI

B.A. No. 15139 of 2021

Kameshwar Kumar Chowhan	Petitioner
Versus		
The State of Jharkhand	Opp. Party
With		
B.A. No. 15203 of 2021		
Shivji Paswan	Petitioner
Versus		
The State of Jharkhand	Opp. Party

CORAM : HON'BLE MR. JUSTICE SUBHASH CHAND

For the Petitioner	: Mr. Nilesh Kumar, Advocate(in both the cases)
For the State	: Mrs. Vandana Bharti, A.P.P.(in B.A No.15203/2021)
	Mr. A.K. Tiwari, A.P.P.(in B.A No.15139/2021)

4/28.04.2022

Since both the cases are arising of the same FIR, the same shall be heard together and disposed of accordingly.

Heard learned counsel for the applicant and learned APPs for the State.

B.A. No. 15139 of 2021 is on behalf of the applicant Kameshwar Kumar Chowhan and B.A. No. 15203 of 2021 is on behalf of applicant, Shivji Paswan with a prayer to release on bail in connection with T. Tangar P.S. Case No.18/2021 under sections 20, 22, 27A of NDPS Act and section 414/34 of the IPC, pending in the court of learned Sessions Judge cum Special Judge, NDPS, Simdega.

Learned counsel for the applicant has submitted that FIR of both the cases was lodged by the police officer against 5 named accused persons including the applicants and unknown owner of the Bolero vehicle with these allegations that the informant police officer while on patrolling duty alongwith police officers saw Bolero vehicle bearing registration No.OR-19M-1015 and the same was intercepted, three persons were apprehended at the spot who were identified as Shivji Paswan, Om Prakash Pandey and Kameshwar Kumar Chowhan. All the three accused persons had stated that the ganja/cannabis was in the Bolero car worth Rs.61 lacs. Accordingly from the said Bolero car, total 49 packets containing 117.80 kgs ganja was recovered. The name of the other accused transpired in the confessional statement of these apprehended accused. Accordingly, the FIR was lodged.

Learned counsel for the applicant has submitted that the applicants are innocent and have been falsely implicated in this case. There is no independent witness of the seizure memo and the sampling from the recovered contraband was not made at the place of occurrence rather it was made at the police station which was in violation of provisions of section 42 of the NDPS Act. The applicants have been languishing in jail since 16.04.2021.

Learned APP appearing on behalf of the State vehemently opposed the contentions made by the learned counsel for the applicants and contended that both the applicants along with co-accused Om Prakash Pandey were apprehended at the spot, who were in the Bolero car from whom huge quantity of cannabis/ganja weighing 117.80 kgs was recovered. There was no violation of provision of section 42 of NDPS Act. The recovered cannabis was many times above the commercial quantity and the same could not have been planted in the Bolero car. In view of the FSL Report, the contraband was confirmed to be ganja/cannabis.

In view of the submissions made and the materials on record and also keeping in view of provisions of section 37 of the NDPS Act, there is reasonable grounds to believe that the applicants had committed the alleged offence and likely to commit the offence if enlarged on bail.

Accordingly, the bail application of the applicant is hereby rejected.

(SUBHASH CHAND, J.)

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