

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45949 of 2014

Arising Out of PS.Case No. -22 Year- 2014 Thana -MEERGANJ District- PURNIA

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1. Md. Ismail @ Esmail , son of Lokh Nath Ali, resident of village Nichitpur.P.S.- Karandighi, District- Uttar Dinajpur.
 2. Md. Jamal @ Jamal Hussain, son of Md. Ismil, resident of village Choncha, P.S.- Baisi, District- Purnea, at present Nichitpur.P.S.- Karandighi, District- Uttar Dinajpur

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ram Prawesh Kumar

For the Opposite Party/s : Mr. Yogendra Kumar Singh(App)

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL ORDER

4 21-05-2015 Heard the Counsel for the petitioners and Mr. Ram Chandra Singh, APP for the State.

The petitioners claim themselves to be owner and driver of Scorpio vehicle which met with accident. The Police arrived at the scene of occurrence and in absence of any occupant thereof, seized 139.69 litres of foreign made liquor. This gave rise to Meerganj P.S. Case No. 22 of 2014 registered under Section 273IPC and Section 47(a) of the Excise Act recorded on the self-statement of the Officer-in-charge of Meerganj Police Station.

Contention of the petitioner is that they were not present in the vehicle. Therefore, the petitioner cannot be said to be in conscious possession of the seized articles. In fact, while the vehicle was returning to Purnea, a Barat party forcibly stopped and

boarded along with the wine. Petitioners have no such previous antecedent.

If that be the case then a minor punishment is provided under the provisions of the Act.

In the event of arrest or surrender in the Court below within four weeks, the petitioners abovenamed are directed to be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of Sri Ajay Kumar, Judicial Magistrate-II, Purnea in Meerganj P.S. Case No. 22 of 2014 subject to the condition as laid down under Section 438(2) of the Cr.P.C. with the further following conditions:

(I) One of the bailers shall be the own/close family members of the petitioners.

(ii) In case of framing of charge, the petitioners shall appear in person on each and every date fixed in the Court below. In case of default on two consecutive occasions without any cogent/satisfactory reason, the Trial Court shall have liberty to cancel the bail bond of the petitioners secure their arrest in accordance with law.

(Kishore Kumar Mandal, J)

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