

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53937 of 2015

Arising Out of PS.Case No. -253 Year- 2015 Thana -MOTIPUR District- MUZAFFARPUR

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1. Kashi Nath Prasad
2. Bashuki Nath Prasad Both are sons of Baidyanath Prasad Resident of
Mohalla - Jhitkahiya, P.S. Brahampur, District - Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravi Ranjan
For the Opposite Party/s : Mr. Smt. Nirmala Kumari(App)

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL ORDER

3 16-02-2016 Heard the Counsel for the petitioners, Mr. Satyabir
Bharti for the informant and the APP for the State.

Petitioners are facing accusations punishable under
Sections 107, 109, 481, 482, 420 and 120(B) of the Indian Penal
Code and Section 102(2)(6) and 103 of Trademark act, 1999 vide
Motipur P.S. Case No. 253 of 2015.

The General Manager of the company has lodged the
case alleging that the petitioners used to collect the used bottles
containing the trade mark of the company and supply to some
party who, in turn, used to sell these bottles to another company
engaged in manufacture of liquor. The bottle was actually used by
some other company using the trade mark of the informant
company. It is alleged that earlier also an F.I.R. to this effect was
lodged against the petitioners.



Counsel for the petitioners has contended that the petitioners have valid documents to deal with the broken glasses. The bottles collected by the petitioner are sent to the consignee against order. The offence of this nature according to the Trade Mark Act should be agitated before the Court and not in a criminal proceeding like this. However, as a precaution, the petitioners undertake that henceforth they will use the bottle of the company of the informant but only after removing the trade mark embossed thereon or breaking the bottles. If necessary, the petitioners shall also file a suit for requisite relief. If there be any future allegation of dealing the glass without being broken, the same may be considered as a breach of the condition of bail.

Considering the facts and circumstances of the case as also the stand taken hereinabove by the petitioners, 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 learned S.D.J.M., West, Muzaffarpur in Motipur P.S. Case No. 253 of 2015 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 in doing so on two consecutive occasions without any cogent/satisfactory reason, the Trial Court shall have liberty to cancel the bail bond of the petitioners and secure their arrest in accordance with law.

(iii) In case the petitioners in future are found involved in the case of the like nature contrary to the undertaking, it will be open to the prosecution side to seek their cancellation of bail bond(s).

Pankaj/-

(Kishore Kumar Mandal, J)

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