

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.9478 of 2018

Arising Out of PS.Case No. -502 Year- 2017 Thana -DARBHANGA SADAR District-
DARBHANGA

- =====
1. Shyamdeo Roy, Son of late Chhedinal Roy.
 2. Saurabh Kumar @ Saurabh Kumar Ray, Son of Shyamdeo Roy. Both
Resident of Village Khathara, P.S. Sikti, District Araria

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Malay Kumar Choudhary, Advocate.

For the Opposite Party : Mr. Ahtash Ali Khan, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 20-02-2018 Heard learned counsel for the petitioners and learned
counsel for the State.

The petitioners are languishing in custody since
30.12.2017 in a case for the offence registered under Sections 272,
273, 420, 327, 162/34 of the IPC, 27(d), 28, 28(A), 22(b) of
N.D.P.S. Act, 8/9 of Prevention of Corruption Act, 1988 and 30,
36, 38 and 47 of the of the Bihar Prohibition and Excise Act,
2016.

The prosecution story, in brief, is that on 30.12.2017,
the informant, in course of checking of vehicles, caught a vehicle
and recovered 13 bags each containing Cough Syrup of 100 ML.
On interrogation, driver Gopal Kumar Jha and another person Md.



Ashfaque Alam did not give satisfactory answer nor produce any paper of seized Cough Syrup and stated that the vehicle belongs to one Saurav Kumar Roy who deals in smuggling of Cough Syrup and gave allurement to the police for patch-up the matter and told that their men are coming with money near Dilli Mor. Thereafter, the police party came at Dilli Mor where Gopal Kumar Jha called three persons, who disclosed their names as Shyam Deo Roy, Md. Manauwar and Saurav Kumar Roy out of whom Saurav Kumar Roy stated that they are doing smuggling of Cough Syrup and wants to do the said smuggling in conspiracy of police and after taking Rs. 70,000/- matter be closed. Thereafter, the police arrested all five persons and lodged F.I.R.

It has been submitted by learned counsel for the petitioners that the petitioners have got no criminal antecedent. Charge sheet/prosecution report has been submitted in the present case. There is no allegation of tampering with the witnesses alleged against the petitioners. The petitioners have falsely been implicated in the present case. It is alleged that total 3150 bottles of 100 ML (total 315 liters) Cough Syrup is recovered from the car in question. The name of the petitioners has come as the petitioner no. 2 is owner of the car in question and petitioner no. 1 is the father of petitioner no. 2. It is further submitted that the



Bihar Prohibition and Excise Act, 2016 is not applicable in the present case in light of the judgment passed in C.W.J.C. No. 8519 of 2017 with C.W.J.C. No. 8514 of 2017 dated 12.02.2018. Except for this, there is no other substantive evidence to suggest the implication of the petitioners in this case. Nothing incriminating has been recovered from the conscious possession of the petitioners. The petitioners had no knowledge regarding the Cough Syrup kept in the car in question. There is no compliance of Section 100 Cr. P.C.

On behalf of the State, it is submitted that the petitioners are named in the F.I.R/ Complaint Case.

Considering the aforesaid facts and circumstances, let the petitioners above named, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge, Darbhanga, in connection with G.O. Case No. 01 of 2018, arising out of Sadar P.S. Case No. 502 of 2017.

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(Sudhir Singh, J)

