IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24352 of 2018

Arising Out of PS.Case No. -14 Year- 2018 Thana -VAISHALI District- VAISHALI(HAJIPUR)

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Barham Parkash S/o Late Prabhu Dayal, R/o Vill.- Mohammadpur, Ahir, P.S.- Tabru, District- Nuhu, Gurgaon, Haryana. .... Petitioner.

Versus

The State of Bihar. .... Opposite Party.

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WITH

Criminal Miscellaneous No.24775 of 2018

Arising Out of PS.Case No. -14 Year- 2018 Thana -VAISHALI District- VAISHALI(HAJIPUR)

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Gagan Sharma S/o Late Onkar Sharma, R/o House No. 50, New Shivajee Nagar, Basti, P.S.- Danishnanda, District- Jalandhar, Punjab.

.... Petitioner.

Versus

The State of Bihar. .... Opposite Party.

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WITH

Criminal Miscellaneous No.24878 of 2018

Arising Out of PS.Case No. -14 Year- 2018 Thana -VAISHALI District- VAISHALI(HAJIPUR)

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Kundan Kumar, S/o Raj Deo Rai, R/o Village-Bhagwanpur Rati, P.S. Vaishali, District-Vaishali. .... Petitioner.

Versus

The State of Bihar. .... Opposite Party.

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Appearance :
(In Cr.Misc. No.24352 of 2018)
For the Petitioner/s : Md. Soban Asghar
For the Opposite Party/s : Mr. Tarun Prasad Mandal
(In Cr.Misc. No.24775 of 2018)
For the Petitioner/s : Mr. Prabhat Ranjan
For the Opposite Party/s : Mr. Sri Manish Kumar 2
(In Cr.Misc. No.24878 of 2018)
For the Petitioner/s : Mr. Krishna Ranjan
For the Opposite Party/s : Mr. Shailendra Kumar -2

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL
ORAL ORDER

02 01-05-2018 Heard learned counsel for the petitioners and learned APP for the State.

The petitioners seek bail in a case registered for the

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offence punishable under Section 420/467/468/120-B of the Indian Penal Code and Section 30 (a), 32 (2) and 41 (1) of the Bihar Prohibition and Excise Act, 2016.

As per the prosecution case, 5085 liters of foreign liquor is said to have been recovered from the truck and the petitioner-Barham Prakash, who is said to be khalasi of the aforesaid truck was apprehended. On the confessional statement of petitioner-Barham Prakash, petitioner-Gagan Sharma, who is said to be Godown Incharge of M/s Akash Enterprises dealing with the liquor of the brand which was seized from the truck, was apprehended. Petitioner-Kundan Kumar is said to be indulged in the trade of liquor and has brought the aforesaid liquor by the truck, as per the secret information received by the informant.

It is submitted on behalf of petitioner-Barham Prakash that he does not happen to be driver rahter khalasi of the truck as evident from the F.I.R. itself while driver of the truck is Dharmu Panchal and he had no knowledge of keeping the aforesaid liquor in the container of the truck. He was not apprehended on the spot. He has no concern with seized liquor. The police has recorded his confessional statement under coercion, which has no evidentiary value in the eye of law. He has no criminal antecedent and has been languishing in custody since

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17.01.2018. Chargesheet in the case has already been submitted.

It is submitted on behalf of petitioner-Gagan Sharma that he happens to be Godown Incharge of M/s Akash Enterprises and has been falsely implicated in this case. He was not apprehended on the spot. There is nothing on record indicating the complicity of petitioner-Gagan Sharma in the occurrence, barring the confessional statement of co-accused Barham Prakash. The aforesaid seized liquor was not sold out by M/s Akash Enterprises. No incriminating article has been recovered from the factory of the petitioner. He has no concern with seized liquor. Chargesheet in the case has already been submitted. He has been languishing in custody since 31.01.2018.

It is submitted on behalf of petitioner-Kundan Kumar that he was not apprehended on the spot and the police has falsely implicated him in this case. The identity and genuineness of the source of information has not been mentioned in the F.I.R. He has no concern with the seized liquor. Chargesheet in the case has already been submitted. Though one case under the Excise Act has been lodged against the petitioner Kundan Kumar but he is on bail in the said case. He has been languishing in custody since 18.01.2018.

On the other hand, learned A.P.P. appearing for the

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State vehemently opposing the bail applications has submitted that huge quantity of foreign liquor has been recovered from the truck which was sold out by petitioner-Gagan Sharma to petitioner-Kundan Kumar and transported by petitioner-Barham Prakash, hence they do not deserve the privilege of bail.

In the facts and circumstances of the case, the above named petitioners are directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned 2nd Additional Sessions Judge-cum-Special Judge, Vaishali at Hajipur in connection with Vaishali P.S. Case No.14 of 2018 (G.R. No.222 of 2018).

(Prakash Chandra Jaiswal, J)

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