

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51640 of 2018

Arising Out of PS. Case No.-110 Year-2018 Thana- PAHARPUR District- East Champaran

1. Shambhu Mahto S/o late Ramchandra Mahto
2. Chandeshwar Mahto S/o Dhukhan Mahto Both are R/o Village-Saraiya (Dhanger Toil), P.S. Paharpur, Distt. East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh

For the Opposite Party/s : Mr. Sri Upendra Kumar

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 26-09-2018 Counsel for the petitioners seeks permission of the Court to withdraw this application so far as petitioner no. 1 is concerned as he has been taken into custody.

Permission is accorded.

The application is dismissed as withdrawn with respect to petitioner no. 1.

Heard learned counsel for the petitioner and learned APP for the State.

The petitioner no. 2 is apprehending his arrest in a case registered under Sections 272, 273 of the Indian Penal Code and Sections 30(a) (b) (c), 33, 34 and 36 of the Bihar Prohibition and Excise Act, 2016.

The prosecution case, in short, is that 190 liters wine is



recovered.

It has been submitted on behalf of the petitioner that the petitioner no. 2 has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner no. 2. The name of the petitioner no. 2 has transpired as the alleged recovery is made from his joint house where the other family members also reside. Except for this, there is no other substantive evidence to suggest the implication of the petitioner no. 2 in this case. It is alleged that 190 liters wine is recovered from the joint house of petitioner no. 2. Nothing incriminating has been recovered from the conscious possession of the petitioner no. 2. The petitioner no. 2 had no knowledge regarding the alleged incident. There is no compliance of Section 100 Cr.P.C.

On behalf of the State, it is submitted that the petitioner no. 2 is named in the F.I.R./complaint case.

Considering the aforesaid facts and circumstances, let the petitioner no. 2, above named, in the event of arrest/surrender before the learned court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned 7th



Additional Sessions Judge -cum- Special Judge, Excise, East
Champaran at Motihari in connection with Paharpur P.S. Case
No. 110/2018, subject to the conditions as laid down under
Section 438(2) of the Code of Criminal Procedure.

(Sudhir Singh, J)

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