

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8116 of 2018

Arising Out of PS. Case No.-49 Year-2017 Thana- BYPASS District- Patna

1. Bikram Kumar @ Vikram Mallah, S/o Prakash Mallah,
2. Jasso Kumar @ Jasso S/o Suraj Rai, Both R/o Village-
Nawabganj Bundel Toli, P.S.- Malasalami, District- Patna.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Harish Kumar

For the Opposite Party/s : **Mr. KALYAN SHANKAR**

CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

2 21-03-2018 Heard leaned counsel for the petitioners and the
leaned A.P.P. for the State.

The petitioner apprehends his arrest in connection with By-pass P.S. Case No. 49 of 2017, registered under Section 30(a) of the Bihar Prohibition of Excise Act, pending in the court of the Special Judge, Excise Act, Patna.

The accusation is that in course of patrolling duty, four persons were seen carrying gunny bags and cartons on their shoulders, but out of them one person was caught hold by the informant. The apprehended person disclosed his name as Dipak @ Md. Amir and he also disclosed the name of petitioners as his associate, who succeeded to flee away. On search, 98 liters of India made foreign liquor in different bottles



were recovered.

Learned counsel for the petitioner submits that earlier the prayer for pre-arrest bail of the petitioner was dismissed as withdrawn vide Criminal Miscellaneous No. 36499 of 2017 on 02.08.2017 due to non-maintainability of the application under Section 438 of the Cr.P.C. for the offence under the Bihar Excise (Amendment) Act, 2016, but later on, a Division Bench of this Court in Criminal Miscellaneous No. 21578 of 2017 (Manish Kumar @ Lokesh Kumar v. The State of Bihar) held that the application filed under Section 438 of the Cr.P.C. for the offence under the Bihar Excise (Amendment) Act, 2016, is maintainable. Thereafter, the present application has been filed. Further submission is that it would appear from the F.I.R. that petitioner was not apprehended on the spot, rather, their names have been disclosed by the co-accused, who is said to be apprehended by the Police with the alleged India made foreign liquor. Further submission is that the petitioners have no criminal antecedent.

Having regard to the facts and circumstances of the case, let the above named petitioners, be released on bail, in the event of their arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing



bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the Special Judge, Excise Act, Patna in connection with By-pass P.S. Case No. 49 of 2017, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Rajendra Kumar Mishra, J)

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