

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5057 of 2019

Arising Out of PS. Case No.-323 Year-2018 Thana- ISLAMPUR District- Nalanda

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1. Deepak Kumar, aged about 20 years, Gender-Male, Son of Sri Sanjay Prasad
 2. Satish Kumar, aged about 22 years, Gender-Male, Son of Sri Lala Choudhary
- Both Resident of Village – Attasarai, P.S.-Islampur, District-Nalanda.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dudh Nath Singh

For the Opposite Party/s : Mr.Ramesh Chandra

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 30-01-2019 Heard learned counsels for the petitioners and the
State.

It is submitted by learned counsel for the petitioners that petitioner no.2 has been arrested, hence he seeks permission to withdraw the application with regard to petitioner no.2, Satish Kumar.

Permission is accorded.

Accordingly, application with regard to petitioner no.2 is dismissed as withdrawn.

So far as petitioner no.1 is concerned, he is apprehending arrest in a case registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The prosecution case is that on 25.09.2018. at 10.30 A.M.,



the informant being the A.S.I. of Islampur Police Station was laying raids on different places for smuggling of illicit liquor, in the meantime, he received a secret information to the effect that co-accused Rahul Kumar, and the petitioners, Deepak Kumar and Satish Kumar are to pass through that place with illicit liquor, whereupon he reached at the cattle market situated at Atasara and saw three persons, out of them, one person was carrying plastic bag on his head whereas other two persons were carrying bag in their hands, but after seeing the police, all the accused persons after throwing the plastic bags escaped from the scene. From the plastic bag, 90 sachets, each containing 200 M.L. country made liquor were recovered. Subsequently, the Chaukidar disclosed the name of the persons, who escaped from the scene, as the petitioners, Deepak Kumar and Satish Kumar and co-accused Rahul Kumar.

It is submitted by learned counsel for the petitioners that admittedly, co-accused, Rahul Kumar was carrying the plastic bag, from which, the recovery has been made. There is no recovery from the possession of the petitioner no.1 as there is no accusation that the petitioner no.1 was carrying the bag. A statement has been made in paragraph no.3 of the petition that the petitioner no.1 is not having any criminal antecedent.



Learned APP submits that the petitioners were found carrying liquor, but they escaped from the scene.

Considering the fact that prosecution report does not suggest that any recovery has been made from the petitioner no.1, coupled with the statement made in paragraph no.3 of the petition that the petitioner no.1 is not having any criminal antecedent, let the above named petitioner no.1 be released on anticipatory bail in the event of arrest/surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Additional District Judge-VI-cum-Special Judge, Excise Act, Nalanda, Bihar Sharif, in connection with Islampur P.S. Case No. 323 of 2018, subject to the condition as laid down under Section 438(2) of the Cr. P.C.

(Dinesh Kumar Singh, J)

Amrendra/-

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