

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15844 of 2019

Arising Out of PS. Case No.-539 Year-2018 Thana- JAYNAGAR District- Madhubani

1. UPENDRA YADAV Son of Late Uttim Lal Yadav Resident of Village- Korhiya, P.S.- Jainagar, District- Madhubani.
2. Khanna Mukhiya Son of Late Gudari Mukhiya R/o Village- Korhiya, P.S.- Jainagar, District- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ratanakar Jha

For the Opposite Party/s : Mr.Damodar Prasad Tiwary

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 25-03-2019 Heard learned counsel for the petitioners and the learned counsel appearing on behalf of the State.

Petitioners seek bail in connection with Jainagar P.S. Case No. 539 of 2018 for offences punishable under Sections 272, 273, 414/34 of the Indian Penal Code and Section 30 (a) of the Bihar Prohibition and Excise Act, 2016.

The prosecution case as lodged by the informant police personnel is that on secret information, raid was conducted and from the orchard 910.200 litres of illicit Nepali wine was recovered in which 16 persons including the petitioners were apprehended.

It has been submitted by the learned counsel for the



petitioners that they are innocent and have been falsely implicated in the aforesaid case. He submits that the confessional statement before the police has no evidentiary value in the eye of law and one of the apprehended co-accused has already been granted the privilege of bail by a coordinate Bench of this Court in Cr. Misc. No. 8710 of 2019 dated 14.02.2019. He submits that the said illicit liquor was not recovered from their conscious possession and the petitioners undertake to cooperate in the investigation/trial and not to tamper with the prosecution evidence.

However, learned APP for the State opposes the prayer for bail stating therein that the petitioners do not have a clean antecedent and one more case each is pending against the petitioners for similar offence.

Considering the facts and circumstances of the case and materials on record as well as the fact that the entire recovery could not be attributed only to the petitioners, let the petitioners above named 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 Additional District & Sessions Judge-2nd & Sessions Judge-cum-Special Judge, Excise Act, Madhubani in connection with Jainagar P.S.



Case No. 539 of 2018, subject to the conditions:-

(1) One of the bailors would be close relative of the petitioners having sufficient immovable properties, who will file an affidavit stating his relationship with the petitioners.

(2) The petitioners will appear before the learned Court below during trial as and when required and failure to appear on two consecutive dates without assigning any reason will entail cancellation of their bail bonds.

(3) If the petitioners indulge in an offence of similar nature in future, the prosecution will be at liberty to move the learned Court below for cancellation of their bail bonds.

(Nilu Agrawal, J)

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