

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.26158 of 2019

Arising Out of PS. Case No.-74 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Gopalganj

1. NAWAL KISHORE PRASAD, Male, aged about 40 years, Son of Late Bacha Prasad Resident of Village - Rupan Chhap, P.S.- Barauli, Distt.- Gopalganj
2. Bataee Mahto @ Buter Mahto, Male, aged about 45 years, Son of Late Chaneswar Mahto Resident of Village - Rupan Chhap, P.S.- Barauli, Distt.- Gopalganj

... Petitioners

Versus

The State of Bihar

... Opposite Party

Appearance :

For the Petitioners : Mr. Javed Aslam, Adv.

For the Opposite Party : Mr. Bishweshwar Ram, APP

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

2 08-05-2019

Heard the learned counsel for the petitioners and the learned

Additional Public Prosecutor appearing for the State.

The petitioners seek bail in connection with Excise Case No. 74 of 2019 for the offence alleged under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The prosecution case, as lodged by the Excise Officials, is that on secret information a vehicle was intercepted, the petitioners were apprehended and on search from the vehicle 388.800 liters of illicit liquor was recovered and on their confession 259.200 liters illicit liquor was recovered from the nearby bushes. Accordingly, a seizure list was prepared.

It has been submitted by the learned counsel for the petitioners that they are innocent, bear no criminal antecedent, nothing has been recovered from their conscious possession and the petitioners are victim of high handedness of police. It is, further, submitted that although the place of recovery was from an open place, the independent



witnesses have not been made seizure list witnesses, which amounts to non-compliance of Section 100 of the Criminal Procedure Code.

However, the learned Additional Public Prosecutor for the State opposes the prayer for bail.

Considering the nature of allegations and the materials on record, let the petitioners, above named, be released on bail, **on completion of investigation**, on furnishing bail bonds of Rs.10,000/- (rupees ten thousand) each with two sureties of the like amount each in connection with Excise Case No. 74 of 2019 to the satisfaction of the learned Additional Sessions Judge II-cum-Special Judge, Excise, Gopalganj, or the successor Court, subject to the following conditions :

(i) One of the bailors of each of the petitioners would be a close relative having sufficient immovable property, who will file an affidavit stating his/their relationship(s) with the petitioner(s).

(ii) 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 his/their bail bond(s).

(Nilu Agrawal, J)

Shamshad/-

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