

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33893 of 2019

Arising Out of PS. Case No.-458 Year-2018 Thana- BIHTA District- Patna

1. Awdhesh Yadav S/o Late Shivraat Yadav R/o Village- Taregna Bindaul, P.S.- Bihta, District- Patna.
2. Mahesh Yadav S/o Late Shivraat Yadav R/o Village- Taregna Bindaul, P.S.- Bihta, District- Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Samir Kumar

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

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

3 08-08-2019 Heard learned counsel for the petitioners and learned APP for the State.

Petitioners apprehend their arrest in connection with Bihta P.S. Case No. 458 of 2018 registered for the offence punishable under Sections 30(a) & 37(b) of the Bihar Prohibition and Excise Act-2016.

On the tip-off about brewing of liquor at the Bank of Sone River by some criminals, the informant along with police party arrived there and apprehended one Ganesh Rai along with 30 lts. of country made liquor in course of escaping while other accused managed to escape. Apprehended accused disclosed the name of the petitioners as one of their fleeing



accomplices and the informant also seized 220 lts. country made liquor from the Bank of river.

It is submitted by learned counsel for the petitioners that no incriminating article has been recovered from conscious physical possession of the petitioners. They have no concern either with the seized liquor or with the place of recovery or with any activity of brewing liquor. They have been falsely implicated in this case by the aforesaid apprehended accused due to animosity. There is noting cogent material on record to indicate the complicity of the petitioners in the occurrence barring the aforesaid disclosure made by the apprehended accused, hence, no offence under Excise Act is made out against the petitioners. There is violation of Section 100 Cr.P.C.

On the other hand, learned APP opposed the bail prayer of the petitioners.

In 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 six 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 learned Special Judge, Excise



Act, Patna in connection with Bihta P.S. Case No. 458 of 2018,
subject to the condition as laid down under Section 438 (2) of
the Cr.P.C.

(Prakash Chandra Jaiswal, J)

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