

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39868 of 2019

Arising Out of PS. Case No.-46 Year-2019 Thana- SANHAULA District- Bhagalpur

1. Nityanand Mahto, Aged about 49 years, Male, Son of Late Barjun Mahto, Resident of Village Maheshpur Beldariya, P.S. Sanhoula, District Bhagalpur.
2. Sunil Mahto, Aged about 28 years, Male, Son of Late Haribol Mahto, Resident of Village Maheshpur Beldariya, P.S. Sanhoula, District Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Jha

For the Opposite Party/s : Mr.Md. Iftekhar Mahmood

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 28-06-2019 Heard both sides.

Petitioners apprehend their arrest in Sanhoula P.S.
Case No.46 of 2019, registered under Sections 272 and 273 of
the Indian Penal Code as well as under Section 30(a) of the
Bihar Prohibition and Excise Act.

The informant, police official of Sanhoula P.S.,
alleged that he got information about the illegal manufacturing
and trade of illicit liquor and on such information the informant
went to search the house of Kishori Mahto, Nityanand Mahto,
Ram Pravesh Mahto and Sunil Mahto situated in village
Maheshpur, Beldari Tola. After seeing the police, the accused
persons managed to flee away. During the search, from the lane



situated in front of the house of Kishori Mahto, 15 litres country made liquor was recovered. From behind the house of Nityanand Mahto, 7 litres country made liquor was recovered. From behind the house of Ram Pravesh Mahto and Sunil Mahto, 5 litres and 10 litres liquor respectively was recovered.

Learned counsel for the petitioners submits that from the seizure list it would appear that the police are the seizure list witnesses. For recovery made from behind the house or from the lane situated in front of the house of the accused persons, the petitioners cannot be held responsible. It is further submitted that the police did not take any step to obtain the signature of any villagers on the seizure list and this fact itself shows concoction of the seizure list. The seizure was made at 3.30 P.M. and it cannot be said that no villager was present in the village.

Taking into consideration the facts aforesaid and the facts that the liquor was recovered from behind the house but neither the inmates of the house nor the signature of the villagers were obtained on the seizure list, let petitioners, above named, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt of this order, 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 2nd Additional District & Sessions Judge-cum-Special Judge, Excise, Bhagalpur in connection with Sanhoula P.S. Case No.46 of 2019, subject to the conditions laid down under Section 438(2) Cr.P.C.

(Prabhat Kumar Jha, J)

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