

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74320 of 2019

Arising Out of PS. Case No.-285 Year-2019 Thana- DURGAWATI District- Kaimur (Bhabua)

1. DRIVER VIKASH KUMAR Son of Prem Bind @ Parem Bind Resident of Village-Darunpur, P.S-Chand, District-Kaimur at Bhabua.
2. Raja Kumar Son of Raj Kumar Bind Resident of Village-Darunpur, P.S-Chand, District-Kaimur at Bhabua.
3. Sarun Kumar Son of Fulchand Bind Resident of Village-Darunpur, P.S-Chand, District-Kaimur at Bhabua.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Tribhuwan Narayan, Adv.

For the Opposite Party/s : Mrs.Indu Kumari Srivastava, Adv.

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

2 27-11-2019 Instant petition under Sections 439 and 440 of Criminal Procedure Code has been moved for grant of bail in Excise Case No.766 of 2019, arising out of F.I.R. No. 285 of 2019, dated 14.10.2019, registered at Police Station Durgawati under Section 30(a) of the Bihar Prohibition & Excise Act, 2016.

I have heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State. I have also perused the relevant record of the case, necessary for adjudication of this petition.

Allegedly, a bottle of 180 m.l. foreign illicit liquor



was recovered from petitioner No.1, which fact is seriously disputed by the petitioners. Prima facie also it appears that thus far no case against the petitioners is made out indicating their complicity in the alleged crime. Recovery is from an area accessible to general public. Planting of the substance has not been ruled out by the prosecution.

Prima facie, nothing is produced to highlight petitioners' direct involvement in the crime.

It is submitted by learned counsel for the petitioners that the petitioners have roots in the society; are not likely to interfere in the investigation or influence any of the witnesses or destroy the evidence; are behind bars since 15.10.2019; no further recovery is to be made from the petitioners, nor any custodial interrogation is required and he has fully cooperated in the investigation.

Keeping in view the provision of the special enactment i.e. Bihar Prohibition and Excise Act, 2016, this Court is of the considered view that petitioners have made out a case for grant of bail. Possibility of false implication, as is so alleged by the petitioners, cannot be ruled out. Also, thus far save and except for naming the petitioners in the F.I.R., no evidence corroborative in nature stands recorded by the police.



Also, none has come forward to highlight the possible involvement of the petitioners in the crime. On what basis the Investigating Officer could link the accused to the crime is also not emanating from the record.

Be that as it may, having regard to the entirety of the attending facts and circumstances of the case, let the petitioners, named above, be released on bail on furnishing bail bond of Rs. 25,000/-(Twenty five thousand) each with two sureties of like amount each to the satisfaction of learned Additional Sessions Judge-3rd-cum-Special Judge, Excise, Kaimur at Bhabhua in connection with Excise Case No.766 of 2019, arising out of F.I.R. No. 285 of 2019, on the following conditions:-

(i) That one of the bailors of the petitioners shall be their close relatives.

(ii) That the petitioners shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioners shall remain physically present in court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, their bail-bonds shall be liable to be cancelled by the learned court concerned.

(iv) The petitioners shall cooperate with the



investigation, if not already concluded, and make themselves available as and when so required and, in case of failure, the State shall be at liberty to move for cancellation of bail.

Any observation made herein shall not be construed to be an expression on the merits of the matter.

Petition stands disposed of in the above terms.

(Sanjay Karol, CJ)

K.C.Jha/-

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