

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 1889 of 2020**

Arising Out of PS. Case No.-489 Year-2019 Thana- PHULPARAS District- Madhubani

1. MD NASIR Son of Md Murtuja Resident of Village - Darjiling Mor, P.S.- Pradhan Nagar, Dist.- Darjiling (West Bengal)
2. Ankaj Ray Son of Dinesh Ray Resident of Village - Silliguri, Darjiling Mor, P.S.- Pradhan Nagar, Dist.- Darjiling (West Bengal).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Jitendra Kumar Bharti, Advocate

For the Opposite Party/s : Mr.Tarkeshwar Nath Thakur

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 14-01-2020 Heard learned counsel for the petitioners and the learned APP for the State.

The petitioners seek bail in Phulparas Police Station (for brevity, PS) Case No 489 of 2019 dated 27.11.2019 corresponding to GR No 2277 of 2019 instituted for the offence punishable under Section (s) 272, 273 of Indian Penal Code and Section 30 (a) of Bihar Excise and Prohibition Act, 2016.

From a vehicle, 737.640 liters of Indian made foreign liquor is alleged to have been recovered when the same was stopped. The liquor was concealed in the banana which was loaded on the vehicle in question. Petitioners are driver and helper and it is submitted that they were driving the vehicle



under the bona fide belief that the banana was loaded on the same. They have no concern with the liquor recovered from the vehicle in question. It is submitted that they have no criminal antecedent and in such circumstances, they are in custody since 27.11.2019. It is also submitted that the mandatory provisions under Section 100 of Criminal Procedure Code has also not been complied in the alleged recovery.

Learned APP for the State opposed the prayer for bail.

Considering the aforesaid, let the petitioners, above named, be released on bail on each of them furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge II -cum- Special Judge, Excise Act, Madhubani in Phulparas PS Case No 489 of 2019 dated 27.11.2019 corresponding to GR No 2277 of 2019 subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioners who will give an affidavit giving genealogy as to how he is related with the petitioners. The bailor will also undertake to inform the Court if there is any change in the address of the petitioners.

(ii) That the petitioners will be well represented on each date and if they fail to do so on two consecutive dates, their bail



bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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