

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 8851 of 2020**

Arising Out of PS. Case No.-152 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Banka

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1. SUBODH SHARMA Son of Sri Fudak Sharma Resident of Village - Sapha, P.S. - Sour Bazar, District - Saharsa.
 2. Arjun Sharma @ Arvind Sharma Son of Dukho Sharma Resident of Village - Chikni, P.S. - Sour Bazar, District - Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Subesh Sharma, Advocate

For the Opposite Party/s : Mr Gauri Shankar Gupta, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

3 13-05-2020 The matter has been listed today for consideration through Video Conferencing in view of the Nationwide lock down on account of the COVID 19 Pandemic.

Learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings with the aid of audio visual technology.

Heard Mr Subesh Sharma, learned counsel for the petitioners as well as Mr Gauri Shankar Gupta, learned APP for the State.

Petitioners seek bail in Complaint Case No 152 of 2019 instituted for the offence punishable under Section 30 (a)



of Bihar Prohibition and Excise Act (for brevity, the Act).

Petitioners are alleged to have apprehended from a Tata 407 vehicle from which 1200 liters of illicit liquor has been recovered.

Learned counsel for the petitioners submits that the petitioners have falsely been implicated in this case. The vehicle in question was a passenger vehicle. Even, as per prosecution case, recovery is from special box/compartiment in the vehicle and dnot from the conscious possession of the petitioners.

The learned APP for the State opposed the prayer for bail and submitted that since the petitioners have been apprehended from the vehicle from which recovery has been made, they cannot escape their liability.

Petitioner No 1 is accused in two more cases, namely Sour Bazar Police Station Case No 233 of 2017 registered under Section 30 (a) of the Act and nother case bearing Complaint Case No 303C of 2018 which is also registered under Section 30 (a) of the Act.

It is submitted by the petitioners' counsel that in the said two cases, petitioner No 1 is on bail. The submission on behalf of petitioner No 2 is that he has no criminal antecedent.



The petitioners are in custody in this case since 27.12.2019

Considering the rival submissions, this Court is inclined to allow petitioners' prayer for bail.

Accordingly, 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, Banka in connection with Excise Complaint Case No 152 of 2019 subject to the following conditions -

(1) 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 bailors will also undertake to inform the Court if there is any change in the address of the petitioners.

(2) 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.

It is further made clear that during currency of the Nationwide lock down due to COVID 19 Pandemic, requirement of furnishing bail bonds and conditions shall remain suspended and the petitioners be released on executing



and furnishing their personal bonds to the satisfaction of the Court concerned.

The petitioners must comply with the requirements of furnishing bail bonds and conditions in terms of this order within four weeks after normal working resumes, failing which bail granted under this order shall stand cancelled and petitioners will be liable for the consequences thereof in accordance with law.

Let this order be communicated, without any delay, to the Court of Additional Sessions Judge, Banka and the competent authority of the State in terms of Clause 13 of Notice II published in the cause list uploaded on the Website of this Court.

(Madhuresh Prasad, J)

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