

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 11285 of 2020**

Arising Out of PS. Case No.-2 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- Gopalganj

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1. MAMCHAND Son of Foolchand Resident of Village - Adhoi, P.S.- Barau,
District- Ambala (Haryana)
 2. Gyan Singh Son of Mukhatar Singh Resident of Village - Adhoi, P.S.- Barau,
District- Ambala (Haryana)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Rajesh Kumar, Advocate

For the Opposite Party/s : Ms Meena Singh, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

3 15-05-2020 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 Rajesh Kumar, learned counsel for the petitioners as well as Ms Meena Singh, learned APP for the State.

Petitioners seek bail in Excise Complaint Case No 2 of 2020 instituted for the offence punishable under Section 30



(a) of Bihar Prohibition and Excise (Amendment) Act, 2018.

The petitioners are driver and khalasi respectively of the truck which was searched on suspicion at the Balthari Check Post. Concealed in the potato bags being transported on the truck, 2583.368 liters of Indian Made Foreign Liquor has been recovered. The petitioners are said to be men of clean antecedent and are in custody in connection with such recovery since 03.01.2020.

Petitioners' counsel submits that from the first information report and prosecution report, received pursuant to earlier order passed in these proceedings, bona fides of the petitioners is apparent. Under the impression that they were transporting potato, they have proceeded with the truck. There is document in the FIR to show that the loading on the truck was done by the transporter – Baba Carriers. The petitioners were also handed over National Permit. Both these documents have been handed over at the check post by the petitioners. In view of the documents made available, there was no basis for the petitioners to doubt that other than potato, there was any banned substance kept in the truck. But during investigation, the documents have been found to be allegedly fake. In fact, the petitioners also have been duped by the transporter and made to



believe that they were driving a duly registered truck under a National Permit. Petitioners are in fact victims. During investigation, ownership of the truck has also been ascertained.

The learned APP for the State has opposed the prayer for bail.

Considering the rival submissions, this Court is inclined to allow petitioner's 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 II -cum- Special Judge, Gopalganj in Excise Complaint Case No 2 of 2020 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 II -cum- Special Judge, Gopalganj 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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