

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13117 of 2020**

Arising Out of PS. Case No.-18 Year-2020 Thana- BASANTPUR District- Siwan

1. Manoj Ray aged about 26 years, Gender-Male, Son of Gajendra Ray, Resident of Village - Karahi Khurd, P.S.- Basantpur, District - Siwan.
2. Ajay Ray aged about 23 years, Gender-Male, Son of Gajendra Ray, Resident of Village - Karahi Khurd, P.S.- Basantpur, District - Siwan.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bijay Prakash Singh, Advocate
For the State : Ms. Veena Kumari Jaiswal, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 13-10-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Bijay Prakash Singh, learned counsel for the petitioner and Ms. Veena Kumari Jaiswal, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioners apprehend arrest in connection with Basantpur PS Case No. 18 of 2020 dated 19.01.2020, instituted under Sections 272, 273, 308, 34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the ‘Act’).



4. The allegation against the petitioners and others is that they indulged in the business of illicit liquor and were the persons, among others, who had brought the liquor to the house of Durgesh Kumar who was apprehended, and from whose house there has been recovery of 57.960 litres of liquor.

5. Learned counsel for the petitioners submitted that only on the confessional statement of the person who was caught, namely, Durgesh Kumar, from whose house the recovery was made, the petitioners have been made accused. Learned counsel submitted that there is no recovery from the house of the petitioners and further that no other witness, even during investigation, has taken their name as being the persons who had either brought the liquor to the house of Durgesh Kumar from whose house the recovery has been made or that they were indulging in the business of liquor. Learned counsel submitted that the petitioners have no criminal antecedent.

6. Learned APP submitted that the person from whose house recovery has been made has taken the name of petitioners along with two others as the persons who had brought the liquor for being sold. Thus, it was submitted that the petitioners are also involved in this business. However, she could not controvert that it was only on the basis of the name taken by the arrested person



from whose house the recovery has been made, the petitioners have been named as accused.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned 2nd Additional Sessions Judge-cum-Special Judge, Excise, Siwan in Basantpur PS Case No. 18 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973. Further (i) one of the bailors shall be a close relative of the petitioners, (ii) that the petitioners and the bailors shall execute bond with regard to good behaviour of the petitioners, and (iii) that the petitioners shall also give an undertaking to the Court that they shall not indulge in any criminal activity, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of their bail bonds. The petitioners shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent



on two consecutive dates, without sufficient cause, shall also lead
to cancellation of their bail bonds.

(Ahsanuddin Amanullah, J)

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