

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16786 of 2020

Arising Out of PS. Case No.-1134 Year-2019 Thana- KANKARBAG District- Patna

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1. SANJU KUMAR S/o Lal Babu Rai Resident of Mohalla- Changar, Road No.11, P.S.- Kankarbagh, Distt- Patna.
 2. Chandan Kumar S/o Lakshman Prasad @ Laxman Rai Resident of Mohalla- Changar, Road No.11, P.S.- Kankarbagh, Distt- Patna.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Surendra Kumar Mishra, Adv.
For the Opposite Party/s : Mr. Ram Naresh Ray, APP

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

2 15-10-2020 The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.

Heard learned counsel for the petitioners and learned counsel for the State.

Petitioners apprehend their arrest in a case registered under Sections 272 and 273 of the I.P.C. and Sections 30(a)/37(b) of the Bihar Prohibition and Excise Act.

Informant is the Police Officer, who in his written complaint has alleged that on 25.11.2019 at about 16:15 P.M. when he was on patrolling duty along with other police



personnel he received secret information that some miscreants are selling illegal wine at Changar Smart Colony. On such information they reached said place and on seeing police party, miscreants assembled there tried to escape but one of them was arrested who disclosed his name as Chhotu Rai @ Langra @ Dinanath Prasad. On search 77.600 litres of Mahua wine was recovered from the jute bag which was kept in a bush and also from the dicky of the motorcycle. Thereafter seizure list was prepared and apprehended person disclosed the name of other persons who fled away including petitioners.

It has been submitted on behalf of the petitioners that they are innocent and have been falsely implicated in this case due to village politics and only on the basis of confessional statement of apprehended person and except confessional statement there is no other incriminating material against petitioners. Nothing has been recovered from their possession, as such, no offence under Excise Act is made out against them.

Considering the aforesaid facts and circumstances of the case, prayer of anticipatory bail of petitioner no. 2 Chandan Kumar is allowed, in the event of arrest or surrender before the court below within four weeks from today, Petitioner no. 2 is directed to be released on bail on furnishing bail bond of Rs.



20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise, Patna, in connection with Kankarbagh P.S. Case No. 1134 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure with following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the court concerned.

(2) Petitioner no. 2 Chandan Kumar shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and his absence on two consecutive dates without proper and sufficient reason the trial court will be at liberty to cancel his bail bond.

(3) If the petitioner no. 2 Chandan Kumar tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner no. Chandan Kumar.

So far as petitioner No. 1 is concerned. There is recovery of 12 pkts. containing 200 ML each Mahua wine from the motorcycle of petitioner no. 1 Sanju Kumar, as such, anticipatory bail application of petitioner no. 1 Sanju Kumar is not maintainable and is accordingly dismissed.

However, if petitioner no. 1 Sanju Kumar surrenders and seeks regular bail then his prayer for regular bail shall be



considered on its own merits without being prejudiced by this
order.

(S. Kumar, J)

veena/rajiv-

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