

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20093 of 2020**

Arising Out of PS. Case No.-9 Year-2020 Thana- MITHANPURA District- Muzaffarpur

1. Kunal @ Kunal Kumar Son of Ramashish Paswan Resident of Village -
Kanhauli Math, P.S.- Mithanpura, District- Muzaffarpur
2. Shakti Paswan @ Jai Prakash Son of Ramashish Paswan Resident of Village
- Kanhauli Math, P.S.- Mithanpura, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Tribhuwan Narayan

For the Opposite Party/s : Mr. Atul Chandra

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER**

2 07-07-2020 The matter has been taken up through virtual Court proceeding.

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

Since the physical court proceeding is non-functional, due to present pandemic, COVID-19, the matter is listed with defects.

Learned counsel for the petitioners undertakes to remove the defects within three weeks of resumption of physical court proceeding. In the eventuality of non-removal of defects within undertaken period, the office will place the matter before



the bench.

The petitioners are apprehending arrest in a case registered for the offences punishable under Section 414 of the Indian Penal Code and Sections 30(a), 32(2) and 41(1) of the Bihar Prohibition and Excise Act, 2016 as amended by Act 8 of 2018.

The prosecution case, as per the self statement of S.I., Vijay Kumar Sinha recorded on 08.01.2020 at 2.25 P.M., is to the effect that on the same day during patrolling, a confidential information was received that four persons including the petitioners have brought liquor on a pickup van, consequently, a raid was laid and one person was apprehended, who disclosed his name as Monu Kumar and he confessed that the liquor is being kept in the pickup van and a motorcycle, consequently, both the vehicles were seized and from both the vehicles, total 192.600 litres of Indian Made Foreign Liquor were recovered. Co-accused Monu Kumar further disclosed the name of the petitioners and other co-accused persons.

It is submitted by learned counsel for the petitioner that the recovery has not been made from conscious physical possession of the petitioners and petitioners have no concern with any of the seized vehicles in question, statement to that



effect has been made in para 9 of the petition. A statement has been made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP submits that the name of the petitioners sprang up on the confession of co-accused Monu Kumar.

Considering the fact that the recovery has been made from the seized vehicles in question and the statement made in paragraph 9 of the petition that the petitioners have no concern with the seized vehicles and the same has not been controverted by learned APP, coupled with the statement made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent, let the petitioners above named be released on provisional anticipatory bail for three months, in the event of arrest or surrender before the learned Court below within a period of 6 weeks from today, on furnishing one surety to the satisfaction of the learned Special Judge, Excise, Muzaffarpur in connection with Mithanpura P.S. Case No. 09 of 2020.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo



copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioners which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional anticipatory bail of the petitioners will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties, including one surety given at the time of provisional bail of the like amount each to the satisfaction of the learned Special Judge, Excise, Muzaffarpur in connection with Mithanpura P.S. Case No. 09 of 2020., subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

The learned Court below will be at liberty to further extend the period of provisional anticipatory bail if the court proceeding in physical mode will not resume in next three months.

Accordingly, the application is disposed of.

(Dinesh Kumar Singh, J)

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