

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23883 of 2020

Arising Out of PS. Case No.-45 Year-2020 Thana- KURSAKANTA District- Araria

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1. JITENDRA KUMAR @ JITENDRA KUMAR TATMA Son of Ganesh Tatama Resident of Village-Pothiya, Ward No.10, P.S-Bardaha, District-Araria.
 2. Satish Tatma Son of Nandu Tatma Resident of Village-Pothiya, Ward No.10, P.S-Bardaha, District-Araria.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nafisuzzoha

For the Opposite Party/s : Mr. Nirmala Kumari, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 21-09-2020 The court proceeding has been conducted through virtual mode.

Since the court proceeding is not functional in physical mode, due to present Pandemic, Covid -19, the present case has been listed with defects.

Learned counsel for the petitioners undertakes to remove the defect(s) within a period of four week of resumption of court proceeding in physical mode.

If the defect(s) is not removed within the undertaken period, the office will place the matter again.

Heard learned counsel for the petitioners and the



State.

The petitioners are languishing in custody since 08.03.2020, in a case registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, as amended by Amendment Act 8 of 2018.

The prosecution case, as per the written report of S.I. of Police, Jairam Chaudhary, submitted to the Station House Officer, Kursakanta Police Station is to the effect that on 08.03.2020 at about 5 A.M., the informant received a confidential information that two persons on a motorcycle are transporting illicit liquor. Consequently, raid was laid and one motorcycle was intercepted and two persons were apprehended who disclosed their name as the petitioners and total 21 litres of Nepali liquor were recovered.

Learned counsel for the petitioners submits that the petitioners have maliciously been roped in the present. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent. Moreover, the investigation has already been concluded and in the present situation, created due to pandemic, Covid-19, since the court proceeding is not functional in physical mode, there is no likelihood of trial being concluded in near future.



Learned APP for the State submits that the recovery has been made from the possession of the petitioners.

Considering the nature of recovery, period under custody, the investigation already being concluded and the fact that the trial is not likely to be concluded due to the pandemic, Covid-19 coupled with statement made in paragraph no.3 of the petition to the effect that the petitioners are not having any criminal antecedent, let the petitioners above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned 2nd Additional Sessions Judge-cum-Special Judge, Araria, in connection with Kursakanta P.S. Case No. 45 of 2020, Special Case No. 272 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 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 bail of the petitioners will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (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 learned 2nd Additional Sessions Judge-cum-Special Judge, Araria, in connection with Kursakanta P.S. Case No. 45 of 2020, Special Case No. 272 of 2020.

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

Accordingly, the present application is disposed of.

(Dinesh Kumar Singh, J)

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