

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22655 of 2020

Arising Out of PS. Case No.-122 Year-2020 Thana- PAHARPUR District- East Champaran

1. MAHESWAR SINGH @ BHANU Son of Late Bachcha Singh Resident of Village-English, P.S.-Paharpur, District-East Champaran.
2. Chandan Kumar Singh @ Chandan Singh Son of Maheshwar Singh @ Bhanu Singh Resident of Village-English, P.S.-Paharpur, District-East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Asif Kalim

For the Opposite Party/s : Mr. Ashok Kumar

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 29-09-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the petitioners and Shri Ashok Kumar, learned A.P.P. for the State.

The petitioners apprehend their arrest in connection with Paharpur P.S. Case No. 122 of 2020 for the offence registered under Section 30(a) of the Bihar Prohibition & Excise Act, 2016.

The accusation is regarding recovery of five litres of illicit liquor from the outhouse of the petitioners.



The learned counsel for the petitioners has submitted that the petitioners are innocent, they have been falsely implicated in the present case and are having clean antecedent. It is further submitted that the illicit liquor has been recovered from the outhouse of the petitioners situated in front of their house and since the same was not having any door, foul play cannot be ruled out.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

I have heard the learned counsel for the parties and considered the materials available on record and I find that since there is a specific and direct allegation of recovery of illicit liquor from the outhouse of the petitioners herein, the bar of Section 76(2) of the Bihar Prohibition and Excise Act, 2016 would come into play, hence I hold that the present petition is not maintainable. Nonetheless, I deem it fit and proper to direct the petitioners to surrender before the learned court of ADJ-7th-cum-Special Judge, Excise, Motihari, District-East Champaran in connection with Paharpur P.S. Case No. 122 of 2020, within a period of four weeks from today, whereupon the learned court below shall consider their prayer for grant of bail and pass appropriate orders on the very same day and shall take a



sympathetic view of the matter inasmuch only a meager quantity of five litres of illicit liquor has been recovered and that too from the outhouse situated in front of the house of the petitioners.

The petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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