

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28869 of 2020

Arising Out of PS. Case No.-302 Year-2020 Thana- LAKHISARAI District- Lakhisarai

1. GAUTAM KUMAR S/o Upendra Mandal Residence of Jogmela, P.S.-Lakhisharai, District-Lakhisarai.
2. Nitish Kumar S/o Upendra Mandal Residence of Jogmela, P.S.-Lakhisharai, District-Lakhisarai.

.. ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binay Kumar, Adv.

For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 10-12-2020 Heard Mr. Binay Kumar, learned counsel for the petitioner and Mr. Ashok Kumar Singh, Additional Public Prosecutor for the state through video conferencing.

2. Petitioners apprehend their arrest in connection with Lakhisarai PS Case No. 302/2020 registered for the offence punishable under Section 30 (a) of the Bihar Prohibition and Excise Act, 2016.

3. The allegation, as per FIR, is that the police during patrolling intercepted a motorcycle in which two persons were travelling and upon seeing the police party, both the accused persons fled away leaving the motorcycle on the spot and the police recovered 40 litres of illicit country made liquor from the said motorcycle.



4. Learned counsel for the petitioners submits that both the petitioners are brothers and the motorcycle belongs to petitioner no.2, but petitioner no.1 has been implicated in this case on the basis of the fact that he happens to be brother of petitioner no. 2. Learned counsel further submits that no illicit liquor has been recovered from the conscious possession of petitioner no.1 or from the vehicle belonging to him. As such, no, *prima facie*, case is made out against petitioner no.1.

5. Having regard to the submissions made by the parties and taking into consideration the material on record and the fact that no liquor has been recovered from the conscious possession of the petitioner no.1 and he is not the owner of the said motorcycle, I am inclined to grant anticipatory bail to the petitioner no.1.

6. Accordingly, petitioner no.1, GAUTAM KUMAR shall be released on anticipatory bail, in the event of arrest or surrender within six weeks, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 2nd Additional Sessions Judge-cum-Special Judge, Excise Court, Lakhisarai in connection with Lakhisarai PS Case No. 302/2020, subject to the conditions as laid down under Section 438(2) CrPC.



7. So far as petitioner no.2, Nitish Kumar is concerned, it appears that he is the owner of the said motorcycle from which 40 litres of illicit liquor has been recovered, I am not inclined to grant anticipatory bail to petitioner no.2,. Accordingly, prayer for anticipatory bail of petitioner no.2, Nitish Kumar, is hereby, rejected.

8. It is made clear that at the time of furnishing bail bonds all the parties shall follow the guidelines of social distancing.

(Anil Kumar Sinha, J)

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