

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31828 of 2020

Arising Out of PS. Case No.-140 Year-2020 Thana- DUMARIAGHAT District- East
Champaran

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1. Raja Kumar, aged about 24 years (M), son of Late Jawahar Sah, resident of village- Bhikhanpur Ward No.4, P.S.- Ahilyapur, District- Muzaffarpur.
 2. Ajeet Kumar, aged about 20 years(M), son of Laldev Sah, resident of village- Bhikhanpur, P.S- Ahilyapur, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Abhishek Kumar, Advocate
For the State	:	Mr. Ashok Kumar, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 16-12-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Abhishek Kumar, learned counsel for the petitioners and Mr. Ashok Kumar, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. At the outset, learned counsel for the petitioners submitted that the application has been filed without affidavit, but later on, affidavit has been done and, thus, undertakes that today itself the same shall be *e* filed before the Court.

4. The petitioners are in custody in connection with Dumariyaghat PS Case No.140 of 2020 dated 10.08.2020, instituted under Sections 272, 273/34 of the Indian Penal Code



and 30(a) of the Bihar Prohibition and Excise Act, 2016.

5. The allegation against the petitioners is that upon chase their Bolero vehicle was caught on 10.08.2020, from which 227.53 litres of foreign liquor was seized, on which there were four persons, who, upon seeing the police tried to run away but two persons, the petitioners, were caught.

6. Learned counsel for the petitioners submitted that they have been falsely implicated as they were not arrested from the vehicle, rather, it is alleged that they had started running and there was stampede as there were many persons and, thus, it was not the petitioners, who were the persons, who had tried to run away from the vehicle, and they have wrongly been arrested. Learned counsel submitted that the petitioners have no criminal antecedent and are in custody since 10.08.2020.

7. Learned APP submitted that the petitioners were running away from the Bolero vehicle and upon chase were caught and, thus, cannot plead innocence as from the vehicle foreign liquor has been recovered, which is an offence in the State of Bihar.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioners be released on bail upon furnishing bail bonds of Rs.25,000/- (twenty five thousand) each with two sureties of the



like amount each to the satisfaction of the 7th Additional Sessions Judge-cum-Special Judge, Excise Act, East Champaran, Motihari, in Dumariyaghat PS Case No.140 of 2020, subject to the conditions (i) that one of the bailors shall be a close relative of the petitioners, (ii) that the petitioners and the bailors shall execute bond with regard to good behaviour of the petitioners, and (iii) that the petitioners shall also give an undertaking to the Court that they shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of their bail bonds. The petitioners shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of their bail bonds.

9. The application stands disposed off in the aforementioned terms subject to the petitioners *e* filing the affidavit in the case today.

(Ahsanuddin Amanullah, J)

J. Alam/-

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