

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78373 of 2019

Arising Out of PS. Case No.-120 Year-2019 Thana- DUMARIAGHAT District- East
Champaran

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1. Lalsahab Pathak @ Lalsahab Kumar Pathak Son of Late Chandra Mohan Pathak R/O Village- Pakari, P.S.- Dumaria Ghat, District- East Champaran.
 2. Roopam Pathak @ Roopam Kumar Pathak Son of Late Chandra Mohan Pathak R/O Village- Pakari, P.S.- Dumaria Ghat, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Krishna Kant Singh

For the Opposite Party/s : Mr.Tapeshwar Sharma

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 13-02-2020 It is submitted by learned counsel for the petitioners that petitioner no. 1, Lalsahab Pathak @ Lalsahab Kumar Pathak has been arrested and hence, his application has become infructuous and accordingly, it is disposed of.

Petitioner no. 2 is apprehending his arrest in a case registered for the offences punishable under Sections 414, 272, 273/34 of the Indian Penal Code and Section 30(a) of Bihar Prohibition and Excise Act, 2016.

It is alleged that adjacent to the cattle shed of petitioner no. 2, 33 bottles of Indian Made Foreign Liquor 180 ml each, total 5.940 litres were recovered.

It is submitted by learned counsel for the petitioner



that the recovery cannot be treated from the conscious physical possession of petitioner no. 2 and there is no independent witness. It is further submitted that petitioner no. 2 is accused in four others case but he is on bail in earlier excise cases.

Learned APP submits that the petitioner no. 2 has criminal antecedent.

Considering the nature of accusation and petitioner no. 2 has criminal antecedent, this Court is not inclined to consider the prayer for anticipatory bail of petitioner no. 2 but since the recovery has not been made from the conscious physical possession of the petitioner no. 2, it is a case for consideration of regular bail by the learned Court below, if the petitioner no. 2 surrenders before the learned Court below within a period of six weeks from today in connection with Dumariya Ghat P.S. Case No. 120 of 2019, pending in the Court of learned 9th Additional Sessions Judge -cum- Special Judge, Excise, East Champaran, Motihari.

Accordingly, this application is disposed of.

(Dinesh Kumar Singh, J)

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