

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72442 of 2019

Arising Out of PS. Case No.-561 Year-2019 Thana- SARAIYA District- Muzaffarpur

1. SUNIL KUMAR Son of Jhinga Rai Resident of Village- Manikpur, P.S.- Saraiya, District- Muzaffarpur.
2. Ajay Kumar Son of Vakil Baitha Resident of Village- Basu Chowk, P.S.- Saraiya, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar

For the Opposite Party/s : Mr. Asha Kumari

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

6 22-06-2020 The matter has been taken up through virtual Court proceeding.

Heard learned counsel for the petitioners and learned counsel for the State.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 30 and 30(a) of the Bihar Prohibition and Excise Act, 2016 as amended by Act 8 of Amendment Act, 2018.

The prosecution case, as per the written report of Ajay Kumar Paswan, SHO, Saraiya Police Station submitted to the learned Additional Sessions Judge-cum-Special Judge, Excise, Muzaffarpur, is to the effect that on 26.8.2019, during



patrolling, 4-5 persons were found unloading liquor from the motorcycle but they managed to escape from the scene. Thereafter, the motorcycle and scooty which were left, were searched and from the motorcycle in question, 12 bottles of 750 ml. Indian Made Foreign liquor and from the scooty in question, two boxes of 150 ml Indian Made Foreign liquor were recovered. On search, from the house of co-accused Amarjeet Kumar, liquor was also recovered. Altogether, 108 litres of Indian Made Foreign liquor were recovered.

It is submitted by learned counsel for the petitioners that the petitioners have maliciously been framed in the present case. Statement has been made in paragraph 10 of the petition that the petitioners have no concern with the motorcycle and scooty in question, which reads as follows:

“That the petitioners are not the owner of alleged seized motorcycle nor the said Scooty nor the said garden of bamboo.”

Learned APP submits that the petitioners escaped from the scene. However, he does not controvert that no recovery has been made from the conscious physical possession of the petitioners.

Considering the fact that statement has been made in paragraph 10 of the petition that the petitioners have no concern



with the motorcycle and scooty in question and no recovery has been made from the conscious physical possession of the petitioners, let the petitioners above named in the event of arrest or surrender within six weeks, be released on anticipatory bail, for the present, provisionally for a period of three months on furnishing one surety each to the satisfaction of the learned Special Judge, Excise, Muzaffarpur in connection with Saraiya P.S. Case No. 561 of 2019 subject to the conditions under Section 438(2) Cr.P.C.

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 petitioner which may be transmitted by such surety to the learned Court concerned through e-Mode.

The provisional anticipatory bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise, Muzaffarpur including one surety given at the time of provisional bail.

The learned Court below will be at liberty to further



extend the period of provisional bail if the Court proceeding in
physical mode will not resume in next three months.

(Dinesh Kumar Singh, J)

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