

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76040 of 2019

Arising Out of PS. Case No.-147 Year-2019 Thana- GUTHANI District- Siwan

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1. Nand Kishore Singh Son of Vijendra Singh Resident of Village-Satihabad, P.S.-Rai, District-Sonipat (Haryana).
 2. Indramani Tiwari Son of Ayodhya Pd. Tiwari Resident of Village-K 1230 Jahangirpuri, P.S.-Jahangirpuri, District-New Delhi.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Tiwary, Advocate
For the Opposite Party/s : Dr. Mritunjay Kumar Gautam, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

5 14-05-2020 Heard Mr. Ajay Kumar Tiwary, learned counsel for the petitioners and Mr. Mritunjay Kumar Gautam, learned Additional Public Prosecutor for the State via video conferencing.

This application under Sections 439 and 440 of the Code of Criminal Procedure has been filed on behalf of the petitioners, who have been arrested in connection with Guthni P.S. Case No. 147 of 2019 dated 13.09.2019 registered inter alia under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, pending before the court of Special Judge (Excise), Siwan.

As per the prosecution case, a total of 350 cartons



containing 13,344 bottles of India made foreign liquor (IMFL) worth seven lakh of rupees were found on a truck bearing Uttar Pradesh registration number during vehicle checking at the Srikarpur Check-post on 13.09.2019 at 80:00 a.m. and the petitioners, who were the driver and khalasi, respectively, of the truck in question were arrested. The bottles containing about 3058 liters liquor were concealed in the cartoons beneath pomegranate fruits. On query, the petitioners disclosed that the cartons in question were loaded on the truck at Azadpur Mandi in New Delhi under the instructions of one Kuljeet Singh Bans and they were asked to deliver the cartons containing IMFL at Muzaffarpur for which he had agreed to pay them Rs. 35,000/-.

Learned counsel for the petitioners submitted that for the alleged offence, the petitioners have been sufficiently punished. They have remained in custody for the last eight months. Since the charge-sheet has already been submitted, custodial interrogation of the petitioners is not warranted and they would regularly attend the proceedings of the court, if released on bail.

Learned counsel for the State has vehemently opposed the prayer for bail. He contended that consumption, manufacture, storage, trade, transportation and sale of liquor are



prohibited in the State of Bihar under the Bihar Prohibition and Excise Act, 2016. In spite of the prohibition, the petitioners were professionally engaged in smuggling huge quantity of IMFL on a truck. The offence alleged attracts mandatory meaning of punishment of five years.

Considering the gravity of the offence, I am not inclined to grant bail to the petitioners for the present. The prayer for bail is rejected.

In case, the trial is not concluded within nine months from the date of receipt/production of a copy of the order, the petitioners would be at liberty to renew their prayer for bail.

(Ashwani Kumar Singh, J)

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