

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13713 of 2021

Arising Out of PS. Case No.-40 Year-2020 Thana- District- Bhagalpur

1. MUKESH NISHAD Son of Late Mahesh Nishad Resident of Village - Lailakh, P.S.- Sabour, Distt.- Bhagalpur.
2. Siti @ Raj Son of Late Mahesh Nishad Resident of Village - Lailakh, P.S.- Sabour, Distt.- Bhagalpur.
3. Ajay Kumar Son of Mahesh Nishad Resident of Village - Lailakh, P.S.- Sabour, Distt.- Bhagalpur.
4. Bulbul @ Bulbul Nishad Son of Late Mahesh Nishad Resident of Village - Lailakh, P.S.- Sabour, Distt.- Bhagalpur.
5. Chotu Nishad @ Chotu Kumar Nishad Son of Late Mahesh Nishad Resident of Village - Lailakh, P.S.- Sabour, Distt.- Bhagalpur.
6. Dharma Mahaldar Son of Pakko Mahaldar Resident of Village - Lailakh, P.S.- Sabour, Distt.- Bhagalpur.
7. Pardeshi Kumar Son of Luxdman Nishad Resident of Village - Lailakh, P.S.- Sabour, Distt.- Bhagalpur.
8. Kallu Kumar Son of Mannu Nishad Resident of Village - Lailakh, P.S.- Sabour, Distt.- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Swapnil Kumar Singh, Adv.

For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 01-11-2021 Mr. Swapnil Kumar Singh, the learned counsel for the petitioners seek permission to withdraw the petition with respect to the petitioner nos. 1, 3 and 6, who have been arrested during the pendency of this petition.

The application with respect to the petitioner nos. 1, 3 and 6 is dismissed as having become infructuous.



The learned counsel for the petitioners submits that this case has been filed in the month of November 2020 but till date, it has not been taken up for consideration even once. He further submits that one of the co-accused persons of this case has been granted anticipatory bail by a Bench of this Court. Hence, he requests for giving a priority hearing to this petition.

On the basis of afore-noted submissions, this case has been taken up today for consideration.

The petitioner nos. 2, 4, 5, 7 and 8 seek bail in anticipation of their arrest in connection with Bhagalpur G.R.P.S. Case No. 40/2020 instituted for the offences under Sections 147, 148, 149, 353, 307, 504 and 506 of the Indian Penal Code.

It has been alleged in the First Information Report that liquor in question was recovered from the railway platform. So far as the petitioners on whose behalf this petition has been pressed are concerned, they are sought to be prosecuted in this case only on the basis of suspicion that perhaps they were involved in bringing the liquor on the



railway platform.

Considering this aspect of the matter, one of the accused persons of this case has been granted anticipatory bail as noted above.

The petitioners do not have criminal antecedents.

In view of the afore-stated facts, the learned counsel for the petitioners submits that the offence under the Excise Act cannot be said to have been made out against the petitioners as the recovery is from a public place and not from their conscious possession.

For the reasons afore-stated, the petitioner no. Siti @ Raj, the petitioner no. 4 / Bulbul @ Bulbul Nishad, the petitioner no. 5/ Chotu Nishad @ Chotu Kumar Nishad, the petitioner no. 7/ Pardeshi Kumar and the petitioner no. 8/ Kallu Kumar are directed to be released on bail, in the event of their arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of



learned Additonal District & Sessions Judge -II-cum-Special
Judge, Excise, Bhagalpur, in connection with Bhagalpur
G.R.P.S. Case No. 40/2020, subject to the condition laid
down under Section 438 (2) of the Code of Criminal
Procedure

(Ashutosh Kumar, J)

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