

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 21742 of 2021

Arising Out of PS Case No.-854 Year-2020 Thana- ARA NAWADA District- Bhojpur

1. Deepak Kumar, aged about 28 years (Male), Son of Bablu Yadav.
2. Raja Yadav, aged about 35 years (Male), Son of Brija Yadav.
All resident of Painter Gali, Nawada, PS- Ara Nawada, District- Bhojpur,
Ara.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jawed Gaffar Khan, Advocate
For the State : Mr. Madan Kumar, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 08-06-2021

The matter has been heard *via* video conferencing.

2. The matter has been heard out of turn on the basis of motion slip filed by learned counsel for the petitioners yesterday, which was allowed.

3. Heard Mr. Jawed Gaffar Khan, learned counsel for the petitioners and Mr. Madan Kumar, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. Learned counsel for the petitioners submitted that he may be permitted to withdraw the application on behalf of petitioner no. 1 namely, Deepak Kumar, as he has already been arrested.



5. In view thereof, the application on behalf of petitioner no. 1 namely, Deepak Kumar, stands disposed off as withdrawn and is limited to petitioner no. 2 namely, Raja Yadav.

6. The petitioner no. 2 apprehends arrest in connection with Ara Nawada PS Case No. 854 of 2020 dated 03.11.2020, instituted under Sections 30(a) and 37(c) of the Bihar Prohibition and Excise Act, 2016.

7. The allegation against the petitioner no. 2 is that when police had gone on information that 4-5 persons were selling liquor, on reaching the spot, they saw one of them carrying something in a sack and running away and another person was also running in the same direction and when they were caught, they were found in an intoxicated state and from the sack 20 litres of *mahua* wine and 540 ml. of foreign liquor was recovered and upon being questioned, they had disclosed the name of both the petitioners that they had supplied the liquor to them for selling.

8. Learned counsel for the petitioners submitted that as per the FIR itself, only two persons were seen and both were caught and, thus, petitioner no. 2 was not at the spot even. It was further submitted that though one of the two persons caught had stated the name of petitioner no. 2 also and had alleged that he was also in the business of liquor, but the statement coming from a



person, who was in an intoxicated state, cannot be accepted as it cannot be relied upon. It was submitted that there has been no recovery from the house of the petitioner no. 2 and further that he has no criminal antecedent. Learned counsel submitted that the petitioner is a labourer working in the fields and earning his livelihood.

9. Learned APP submitted that one of the persons who was caught has taken the name of the petitioner no. 2 as being partner in the business of liquor. However, it was not controverted that the said person himself was found to be intoxicated in the breath analysis, as has been stated in the FIR itself.

10. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner no. 2 namely Raja Yadav, be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned 4th Additional Sessions Judge-cum-Special Judge, Excise, Bhojpur Ara in Ara Nawada PS Case No. 854 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioner no.



2, (ii) that the petitioner no. 2 and the bailors shall execute bond with regard to good behaviour of the petitioner no. 2, and (iii) that the petitioner no. 2 shall also give an undertaking to the Court that he 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 his bail bonds. The petitioner no. 2 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 his bail bonds.

11. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner no. 2, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner no. 2.

12. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	
T	

