

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30533 of 2021

Arising Out of PS. Case No.-137 Year-2020 Thana- KATHAIYA District- Muzaffarpur

1. Md. Shahid, aged about 25 years, Male, S/O Md. Salauddin, R/O Village Gopinathpur, P.S-Kathaiya, District-Muzaffarpur.
2. Md. Chhotu, aged about 31 years, Male, S/O Md. Hasnain, R/O Village Gopinathpur, P.S-Kathaiya, District-Muzaffarpur.
3. Md. Mumtaj, aged about 29 years, Male, S/O Md. Jamil Akhtar R/O Village Gopinathpur, P.S-Kathaiya, District-Muzaffarpur.

... .. Petitioners

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Manoj Kumar, Advocate.
For the Opposite Party : Mr. A.G.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 23-07-2021 Learned counsel for the petitioners is directed to remove the defects, as pointed out by the office, within a period of four weeks.

Heard learned counsel for the petitioners and learned A.P.P. for the State through Virtual mode.

Learned counsel for the petitioners seeks permission to withdraw the present anticipatory bail application filed on behalf of petitioner no. 2, namely, Md. Chhotu, as he has been taken into judicial custody in connection with Kathaiya P.S. Case No. 137 of 2020, pending in the court of learned Special Judge, Excise, Muzaffarpur.

Permission is accorded.



Accordingly, the present anticipatory bail application filed on behalf of petitioner no. 2, namely, Md. Chhotu, is dismissed as withdrawn.

Now, the petitioner nos. 1 and 3 are apprehending their arrest in a case for the offence registered under Sections 272, 273/34 of the I.P.C. and 30(a) of the Bihar Prohibition and Excise Act, 2016.

The prosecution story, in brief, is that total 41.250 liters wine and 70 liters spirit is said to have been recovered from a bush.

It has been submitted by learned counsel for the petitioner nos. 1 and 3 that they have got no criminal antecedent. There is no allegation of tampering with the witnesses alleged against them. They have falsely been implicated in the present case. It is alleged that total 41.250 liters wine and 70 liters spirit is recovered from a bush. Their names have come in the present case on the basis of disclosure made by the local residents as per the F.I.R. The names of the local residents, who have named them, have not been disclosed by the prosecution. Except for this, there is no other substantive evidence to suggest their implication in this case. Nothing incriminating has been recovered from their conscious



possession. They had no knowledge regarding the alleged incident. There is no compliance of Section 100 Cr. P.C.

On behalf of the State, it is submitted that the petitioner nos. 1 and 3 are named in the F.I.R.

Considering the aforesaid facts and circumstances of the case, let the petitioner nos. 1 and 3 above named (except petitioner no. 2, namely, Md. Chhotu), in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on their personal bond to the satisfaction of the learned Special Judge, Excise, Muzaffarpur, in connection with Kathaiya P.S. Case No. 137 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioner nos. 1 and 3 shall furnish bail bonds of Rs. 10,000/-(Rupees Ten Thousand) each with two sureties of the like amount each within a period of eight weeks to the satisfaction of the court concerned in connection with the aforesaid case.

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(Sudhir Singh, J)

