

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 31646 of 2020

Arising Out of PS Case No.-254 Year-2020 Thana- MAJHAULIYA District- West
Champaran

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1. Sohan Chaudhary, aged about 32 years, Male, Son of Late Ganesh Chaudhary.
 2. Ajay Chaudhary, aged about 25 years, Male, Son of Prem Chaudhary.
Both Resident of Village-Sariswa Bazar, PS-Majhauilya, District-West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bimlesh Kumar Pandey, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, I/C APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 12-02-2021

Heard Mr. Bimlesh Kumar Pandey, learned counsel for the petitioners and Mr. Jharkhandi Upadhyay, learned I/C Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

2. The petitioners apprehend arrest in connection with Majhauilya PS Case No. 254 of 2020 dated 04.05.2020, instituted under Sections 30 (a)/30(d) of the Bihar Prohibition and Excise Act, 2016.

3. The allegation against the petitioners is that they were indulging in sale of liquor near a school and when police went, they ran away and the locals informed that they were also the persons who have run away and used to sell liquor regularly.



4. Learned counsel for the petitioners submitted that besides having no criminal antecedent, no source of identification has been disclosed. It was further submitted that there has been no recovery from the house of the petitioners also and there is nothing to connect them with the recovered articles. Learned counsel submitted that in view of there being no nexus between the articles recovered to connect them to the petitioners, the present application shall not be hit by the bar of Section 76 (2) of the Act, as it cannot be said that *prima facie* an offence against them is made out under the Act. Learned counsel further submitted that the Court may impose strict and stringent conditions.

5. Learned APP submitted that the petitioners have been identified along with others by the local persons of selling liquor regularly near a school.

6. 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 petitioners be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Judge Excise, Bettiah, West Champaran in Majhauriya PS Case No. 254 of 2020, subject of 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 petitioners, (ii) that the petitioners and the bailors shall execute bond with regard to good behaviour of the petitioners, and (iii) that the petitioners shall also give an undertaking to the Court that they 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 their bail bonds. The petitioners 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 their bail bonds.

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

(Ahsanuddin Amanullah, J.)

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