

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31714 of 2020

Arising Out of PS. Case No.-364 Year-2020 Thana- KANTI THARMAL POWER District-
Muzaffarpur

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1. Vijay Kumar, aged about 19 yeas, Male, son of Panchu Ray, Resident of Village - Harchanda, P.S.- Kanti (Panapur O.P.), District - Muzaffarpur.
 2. Arvind Kumar, aged about 25 years, Male, Son of Banslal Ray, Resident of Village - Harchanda, P.S.- Kanti, District - Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Bela Singh, Advocate
For the State : Mr. Umesh Lal Verma, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 09-02-2021

The matter has been heard *via* video conferencing.

2. Heard Ms. Bela Singh, learned counsel for the petitioners and Mr. Umesh Lal Verma learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioners apprehend arrest in connection with Kanti PS Case No.364 of 2020 dated 01.07.2020 instituted under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the ‘Act’).

4. The allegation against the petitioners is that when the police was on patrolling duty, they got information about the petitioners selling foreign liquor on a brown coloured Apache motorcycle and when they reached Harchanda Chowk, two



persons were coming and the pillion rider was holding a bag and when they were asked to stop, they fled away leaving the motorcycle taking advantage of darkness and on noise the villagers had assembled and they disclosed that the petitioners were the persons, who were indulging in this business and were on that motorcycle.

5. Learned counsel for the petitioners submitted that there cannot be any identification at 10'o clock at night and further that no independent witness has signed the seizure list and, thus, it is surprising as to who among the locals had disclosed the name of the petitioners as being the persons, who had run away. It was further submitted that nothing has been recovered from their house and the motorcycle does not belong to them and that they have no criminal antecedent. It was further submitted that the bar of Section 76(2) of the Act would not apply in the present case as there is nothing to connect the recovered liquor to the petitioners.

6. Learned APP submitted that the police had information about the petitioners selling liquor on the motorcycle and the local people, who had assembled at the place of occurrence, informed that it was the petitioners, who had run away.



7. 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 Court of Special Judge, Excise, Muzaffapur, in Kanti PS Case No.364 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 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.



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

(Ahsanuddin Amanullah, J)

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