

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 36657 of 2020

Arising Out of PS Case No.-51 Year-2020 Thana- TISIAUTA District- Vaishali

1. Sachin Kumar Paswan @ Sachin Paswan, aged about 18 years, Gender-Male, Son of Indrajeet Paswan @ Karpuri Paswan @ Indrajit Paswan.
2. Indrajeet Paswan @ Karpuri Paswan @ Indrajit Paswan, aged about 42 years, Gender-Male, Son of Late Mauji Paswan.
Both resident of Village-Bijhraul Bindi Chowk, Mansinghpur, PS-Tisiauta, District-Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ravish Mishra, Advocate
For the State	:	Mr. Md. Arif, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 02-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Ravish Mishra, learned counsel for the petitioners and Mr. Md. Arif, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. Learned counsel for the petitioners submitted that he may be permitted to withdraw the application on behalf of petitioner no. 2 namely, Indrajeet Paswan @ Karpuri Paswan @ Indrajit Paswan, as he was arrested, though later released on bail



4. In view thereof, as prayed for by learned counsel for the petitioners, the application on behalf of petitioner no. 2, namely, Indrajeet Paswan @ Karpuri Paswan @ Indrajit Paswan, stands disposed off as withdrawn and is restricted to petitioner no. 1, namely, Sachin Kumar Paswan @ Sachin Paswan.

5. The petitioner no. 1, who is son of petitioner no. 2, apprehends arrest in connection with Tisiauta PS Case No. 51 of 2020 dated 05.06.2020, instituted under Sections 30(a)(b)(c) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act') and 414 of the Indian Penal Code.

6. The allegation against the petitioners is that from a Bolero vehicle, which was standing outside their house, when the police went, some persons fled away from the vehicle from which there was recovery of 9 litres of liquor and two persons were caught from whom cash Rs. 21,300/- was also recovered.

7. Learned counsel for the petitioners submitted that the recovery is not from the house of the petitioners as the vehicle was standing outside their house and, thus, there is nothing to connect them to the recovered liquor. It was submitted that the police did not bother to even enter the house of the petitioners and instead went and raided the house of person who was caught at the spot. Learned counsel submitted that besides having no criminal



antecedent, the petitioner no. 1 is a young person and has been unnecessarily dragged in the case without any justification or basis in law.

8. Learned APP submitted that the Bolero from which the recovery has been made was parked outside the house of the petitioners and in the night, a vehicle being parked outside with persons inside, clearly indicates that the petitioner no. 1 and his father were also involved in the business of liquor. Learned counsel submitted that in view of there being direct nexus of the recovered liquor to the petitioners, since from the Bolero vehicle parked outside his house, there is recovery of liquor, the present application would not be maintainable under Section 76(2) of the Act, which bars filing of an application under Section 438 of the Code of Criminal Procedure, 1973.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant pre-arrest bail to petitioner no. 1.

10. Accordingly, the petition stands dismissed.

11. However, in view of submission of learned counsel for the petitioner no. 1, it is observed that if the petitioner no. 1 appears before the Court below and prays for bail, the same shall



be considered on its own merits, in accordance with law, without
being prejudiced by the present order.

(Ahsanuddin Amanullah, J.)

P. Kumar

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