

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46650 of 2021

Arising Out of PS. Case No.-80 Year-2021 Thana- GANGABRIDGE District- Vaishali

1. BALLA RAI S/O LATE BHUDHAN RAI, R/o village- Madarpur Ward No. 10, P.S.- Ganga Bridge, District- Vaishali
2. CHANDAN KUMAR, S/O BALLA RAI R/o village- Madarpur Ward No. 10, P.S.- Ganga Bridge, District- Vaishali

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Arjun Prasad, Advocate

For the Opposite Party/s : Mr. Tapeswar Sharma, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 28-10-2021 Let the defect(s) be removed within two weeks of the complete start of the physical Court in normal course.

Learned counsel appearing on behalf of the petitioners seeks permission to withdraw the application filed on behalf of petitioner No.1, namely, Balla Rai as he has already been arrested by the Police.

In view of the above fact, the present Criminal Miscellaneous filed on behalf of petitioner No.1, namely, Balla Rai has become infructuous. It is, accordingly, dismissed as withdrawn.

Heard learned counsel appearing on behalf of petitioner No.2 Chandan Kumar and the learned A.P.P. appearing for the State.



The petitioner No.2 apprehends his arrest in connection with Ganga Bridge P.S. Case no. 80 of 2021, for the offence under Section 30(a) of Bihar Prohibition and Excise Act, 2018.

The allegation made in the F.I.R., in brief, is that on 30.03.2021 in course of night patrolling, the informant received secret information that petitioners of village-Madarpur, Ward No. 10, P.S. Ganga Bridge has kept consignment of illegal foreign liquor in their house and they are involved in the trade of illegal liquor.

It has been submitted by the learned counsel appearing on behalf of petitioner that from the bare perusal of the F.I.R. it appears that the alleged liquor was not found in the conscious possession of the petitioner No.2 or from any place inside the house of the petitioner. The seized liquor has been recovered from the forest in front of the house of the petitioner.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the fact that the illicit Indian Made Foreign Liquor has neither been recovered from the conscious possession of the petitioner nor from his house, but from the forest in front of the house of the



petitioner. The said fact is apparent from the F.I.R. This Court finds that prima facie no case is made out under the provisions of the Bihar Prohibition and Excise Act, hence the bar under Section 76(2) of the Act, 2016 shall not be applicable in the present case. This Court deems it fit and proper to admit the petitioner to the privilege of anticipatory Bail.

Accordingly, in the event of arrest or surrender in the Court below within a period of four weeks from today, the petitioner No.2, namely, Chandan Kumar is directed to be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned 2nd Addl. Sessions Judge-cum-Special Judge, Excise, Vaishali at Hajipur in connection with Ganga Bridge P.S. Case No. 80 of 2021, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Purnendu Singh, J)

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