

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34941 of 2020

Arising Out of PS. Case No.-238 Year-2020 Thana- PAHARPUR District- East Champaran

1. RAMLOCHAN DAS Son of Late Kishun Das, Resident of Village- Noneya Makhniya, P.S.- Paharpur, District- East Champaran.
2. Suraj Das Son of Ramlochan Das, Resident of Village- Noneya Makhniya, P.S.- Paharpur, District- East Champaran.
3. Tuntun Das Son of Ramlochan Das, Resident of Village- Noneya Makhniya, P.S.- Paharpur, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhishek Kumar, Adv.
For the Opposite Party/s : APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 17-03-2021 Heard both sides.

Learned counsel for the petitioners submits that petitioner no.2, namely, Suraj Das has already been arrested and, therefore, he seeks permission to withdraw the anticipatory bail petition filed on behalf of Suraj Das (petitioner no.2).

Prayer is allowed.

The anticipatory bail petition filed on behalf of petitioner no.2, namely, Suraj Das is dismissed as withdrawn.

Petitioner nos.1 and 3, namely, Ramlochan Das and Tuntun Das, respectively, apprehend their arrest in Paharpur P.S. Case No.238 of 2020 registered under Sections 30(a), 33 and 36 of the Bihar Prohibition and Excise Act.

The informant raided the field of petitioner no.1 and



recovered 220 litres of spirit.

Learned counsel for the petitioners submits that the spirit was recovered from an open field. Of course, petitioner no.1 is the owner of the land but it cannot be said that petitioner no.1 and his sons (petitioners) kept the spirit in their own land. Since the place is open, anybody can keep the spirit in the field of petitioner no.1. Petitioners have got no criminal antecedent.

Taking into consideration the facts that since recovery was made from an open place, petitioner nos.1 and 3, namely, Ramlochan Das and Tuntun Das, in the event of their arrest or surrender before the learned court below within a period of four weeks from the date of receipt/production of a copy of this order, are directed to be enlarged on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned 7th Additional Sessions Judge-cum-Special Judge, Excise, Motihari, East Champaran in connection with Paharpur P.S. Case No.238 of 2020, subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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