

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37217 of 2020

Arising out of PS. Case No.-100 Year-2019 Thana- KASHICHAK District- Nawada

1. Mukesh Singh, (Age-31 Years, Gender-Male), Son of Vednandan Singh
Resident of Village- Pali, P.S.- Kashichak, District- Nawada
2. Arbind Kumar (Age-30 Years, Gender-Male), Son of Ram Keval Singh,
Resident of Village Khakhari, P.S.- Kashichak, District- Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Man Mohan Kumar, Advocate
For the State : Mr. Md. Arif, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 16-07-2021

The matter has been heard *via* video conferencing.

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

3. The petitioners apprehend arrest in connection with Kashichak PS Case No. 100 of 2019 dated 24.06.2019, 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, though not named in the FIR, is that they were also involved in the business of liquor. As per the FIR, when police, on previous secret information that wine was being loaded on a black coloured Scorpio reached



the spot, one Apache Motorcycle and one black coloured Scorpio was seen coming from village Uprawan side and when the vehicle was stopped, the driver of the Scorpio fled away and on chase three persons, namely Baliram Kumar @ Karu Yadav, Ramotar Chauhan and Bino Yadav were arrested and upon search 448 litres of Jharkhand made wine was seized and it was disclosed by the arrested persons that they had unloaded at the house of Lakshman Raut and on search from the house of Lakshman Raut 16 litres of Jharkhand made wine was recovered. However, later on Balram Kumar @ Karu Yadav has given a confessional statement before the police that the petitioners were also involved with him in the business of liquor.

5. Learned counsel for the petitioners submitted that the articles which have been seized were not owned by the petitioners as even the vehicles did not belong to them and the arrested persons had not taken their name as the persons who were connected with such recovery. It was submitted that later on, in the so-called confession of co-accused Balram Kumar @ Karu Yadav, a vague statement that the petitioners were also involved in such such business of liquor, is totally unreliable and most importantly, the recovery in the present case has not been alleged to be related to the petitioners. Thus, only on a vague statement that the petitioners were also involved in such business, without there



being anything to connect them, would not make out any case against them under the Act and, therefore, the bar of Section 76(2) of the Act would not apply. It was submitted that the petitioners have no other criminal antecedent and have their shops at Kashichak Bazar and because of their refusal to pay illegal gratification to the police, their name has been falsely implicated, which would also be obvious from the fact that they were not named in the FIR, despite strict interrogation of Balram Kumar @ Karu Yadav, but surprisingly, he is said to have disclosed the name of the petitioners before the police in his confessional statement, which does not have any evidentiary value in the eyes of law.

6. Learned APP submitted that the arrested person has confessed about the role of the petitioners as being persons involved in the business of liquor.

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 Additional District Judge-II-cum-Special Judge, Excise Act, Nawada in Kashichak PS Case No. 100 of 2019, 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 his 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. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioners, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioners.

9. The petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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