

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37226 of 2020

Arising out of PS. Case No.-110 Year-2020 Thana- SIGAUDI District- Patna

-
1. Sobhan Kumar @ Soman Kumar, aged about 34 years, Son of Nathu Yadav resident of village-Dewariya, Police Station-Sigori in the district of Patna
 2. Tutu Yadav @ Harendra, aged about 25 years, Son of Nathu Yadav resident of village-Dewariya, Police Station-Sigori in the district of Patna
 3. Bikhhal Yadav @ Birmal Yadav, aged about 44 years, Son of Late Sakaldip Yadav resident of village-Dewariya, Police Station-Sigori in the district of Patna
 4. Bucha Kumar @ Ravi Kumar, aged about 25 years, Son of Bhushan Yadav resident of village-Dewariya, Police Station-Sigori in the district of Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar, Advocate
For the State	:	Mr. Damodar Prasad Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 16-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Sunil Kumar, learned counsel for the petitioners and Mr. Damodar Prasad Tiwary, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. Learned counsel for the petitioners submitted that during the pendency of the application petitioner no. 2, namely, Tutu Yadav @ Harendra has been arrested and, thus, application



on his behalf may be permitted to be withdrawn as it has become infructuous.

4. In view thereof, as prayed for by learned counsel for the petitioners, the petition on behalf of petitioner no. 2, namely, Tutu Yadav @ Harendra stands disposed off as withdrawn and is restricted to petitioners no. 1, 3 and 4, namely, Sobhan Kumar @ Soman Kumar, Bikhal Yadav @ Birmal Yadav and Bucha Kumar @ Ravi Kumar, respectively.

5. The petitioners no. 1, 3 and 4 apprehend arrest in connection with Sigori PS Case No. 110 of 2020 dated 09.07.2020, instituted under Sections 272, 273 and 290 of the Indian Penal Code and 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act').

6. The allegation against twenty named accused, including the petitioners, is of being involved in the manufacture of countrymade liquor and on prior information, when the police went to the bank of the river, many persons were seen fleeing in the river and from the bamboo clump, 240 litres of country-made mahua liquor was recovered as also four big gas cylinders, four gas stoves and various utensils for making liquor were also recovered.



7. Learned counsel for the petitioners submitted that they have been falsely implicated and have no connection with either the recovered utensils or the *mahua* liquor. It was submitted that as per the FIR itself the police had already mentioned the name of the petitioners along with others, but has not disclosed the source of information. Further, it was submitted that nothing has been recovered from the house or property belonging to the petitioners and that they have no criminal antecedent. Thus, learned counsel submitted that since there is nothing to connect the petitioners to the recovered articles, including liquor, bar of Section 76(2) of the Act with regard to maintainability of the present petition would not apply. It was submitted that Hulas Yadav, Parmanand Yadav and Bhushan Yadav have been granted anticipatory bail by a coordinate Bench by order dated 05.04.2021 passed in Cr. Misc. No. 4068 of 2021.

8. Learned APP submitted that huge amount of recovery has been made. However, it was not controverted that recovery is from the bamboo clump below the bank of the river and not from the place which was owned or is connected to the petitioners.

9. 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 no. 1, 3 and 4 namely Sobham Kumar @ Soman Kumar, Bikhil Yadav @ Birmal Yadav and Bucha Kumar @ Ravi Kumar respectively, 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-cum-Special Judge, Excise Act, Patna in Sigori PS Case No. 110 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 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 his bail bonds.



10. 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.

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

(Ahsanuddin Amanullah, J)

Vikash/-

AFR/NAFR	
U	
T	

