

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No. 40052 of 2020

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1. Haresh Sahni, age 23 years (Male), son of Shivnath Sahni R/o Village-Kerwania Tola, P.S. Manjhagarh, District-Gopalganj
 2. Sunil Sahni, age 24 years (male), son of Dhurv Sahni R/o village-Maghi Munghraha, P.S.-Manjhagarh, District-Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dharamveer, Adv.

For the State : Mr. Rajeev Nayan, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

2 03-06-2021 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the petitioners and the learned A.P.P. for the State, Mr. Rajeev Nayan.



This is an application for grant of anticipatory bail in connection with Manjhagarh P.S. Case No. 09 of 2020 registered for the offence punishable under Section 414 of the Indian Penal Code and Sections 30(a)/38/41 of the Bihar Prohibition and Exercise Act, 2016.

The allegation is regarding recovery of 398.16 liters of illicit wine from a pickup vehicle.

The learned counsel for the petitioners has submitted that the petitioners are innocent, they have been falsely implicated in the present case and are having a clean antecedent. The learned counsel for the petitioners, by referring to paragraph no. 12 of the present petition, has submitted that the vehicle in question does not belong to the petitioners and moreover, no illicit liquor has been recovered from the conscious possession of the petitioners, hence, no offence is made out under the provisions of Bihar Prohibition and Excise Act. 2016.



Per contra, the learned APP for the State, Mr. Rajeev Nayan, has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioners and taking into account the materials available on record as also considering the fact that the vehicle in question from which the illicit liquor has been recovered does not belong to the petitioners and moreover, no illicit wine has been recovered from the conscious possession of the petitioners, this Court finds that prima facie no offence is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, as far as consideration of the present bail petition is concerned, hence, the bar under Section 76(2) of the Bihar Prohibition and Exercise Act, 2016 shall not be an impediment for the purposes of grant of anticipatory bail to the petitioners herein, thus, I deem it fit and proper to



enlarge the petitioners above named, in the event of their arrest or surrender before the court below within a period of eight weeks from today, on anticipatory bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District and Session Judge II, Gopalganj, in connection with Manjhagarh P.S. Case No. 09 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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