

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1957 of 2022

Arising Out of PS. Case No.-437 Year-2021 Thana- KUCHAIKOTE District- Gopalganj

1. Reshami Devi W/o Dudhnath Prasad Resident of Sital Bardaha, P.S.- Kuchaikote, District- Gopalganj. Bihar
2. Dudhnath Prasad S/o Late Dwarika Prasad Resident of Sital Bardaha, P.S.- Kuchaikote, District- Gopalganj. Bihar
3. Haribansh Kushwaha S/o Ramashray Kushwaha Resident of Jabhi Narendra, P.S.- Tarya Sujan, District- Kushinagar (Uttar Pradesh)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Indrajeet Bhushan, Advocate
For the Opposite Party/s : Mr. Lakshmi Kant Sharma, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 18-07-2022 Let the defects, as pointed out by the office, be removed within four weeks of starting of Court proceeding in physical mode in normal course.

Heard learned counsel for the petitioners and learned APP for the State.

Petitioners seek bail in a case registered for the offences punishable under Sections 419, 420/34 of the Indian Penal Code and Sections 30(a)(b)(c)(d)/36 of the Bihar Prohibition and Excise (Amendment) Act, 2018.

Recovery is of 29 litres (Spirit) and 04 litres of wine kept in the dicky of a Hero Honda motorcycle.



Learned counsel for the petitioners submit that the petitioners have clean antecedents and they have been falsely implicated in the present case only on the basis of suspicion. He further submits that it appears from the F.I.R. as well as seizure list the alleged recovery has been made behind an old house of the petitioner Dudhnath Prasad and some illicit liquor has been recovered from one motorcycle. He further submits that in the present case there is non compliance of Section 100 of the Cr. P.C. and it appears from the F.I.R. that nothing has been recovered from the conscious possession of the petitioners and the police after investigation submitted chargesheet against the petitioners and the petitioners are in custody since 12.10.2021.

Learned APP for the State has opposed the prayer for bail of the petitioners.

Considering the facts and circumstances of the case, let the petitioners, above named, be released on 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 Court below where the case is pending in connection with Kuchaikote P.S. Case No. 437 of 2021, with the following conditions :-

- (1) Petitioners shall co-operate in the trial and shall



be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on their absence on two consecutive dates without sufficient reason, their bail bonds shall be cancelled by the Court below.

(2) If the petitioners tamper with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) And, further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage, it is found that the petitioners have concealed their criminal antecedents, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(4) One of the bailors shall be the closes relatives of the petitioners.

(Rajesh Kumar Verma, J)

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