

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4370 of 2022

Arising Out of PS. Case No.-109 Year-2021 Thana- ISMAILPUR District- Bhagalpur

1. GAUTAM MANDAL @ GAUTAM KUMAR Son of Anandi Mandal @ Anant Mandal Resident of Village - Navtolia Bochahi, P.s.- Ismailpur, Dsitt.- Bhagalpur.
2. Gorelal Mandal Son of Anandi Mandal @ Anant Mandal Resident of Village - Navtolia Bochahi, P.s.- Ismailpur, Dsitt.- Bhagalpur.
3. Sone Lal Mandal @ Sone Lal Kumar Mandal Son of Chandeshwari Mandal Resident of Village - Navtolia Bochahi, P.s.- Ismailpur, Dsitt.- Bhagalpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pankaj Kumar

For the Opposite Party/s : Mrs.Veena Kumari Jaiswal, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 11-02-2022 Due to the third wave of COVID-19 Pandemic, the matter is being taken up by way of virtual Court proceeding.

The matter has been listed under the heading “For Orders” under the orders of Hon’ble the Chief Justice.

Learned counsel for the petitioners is directed to remove the defect(s), as pointed out by the office, within a period of four weeks after restoration of normalcy.

Heard learned counsel for the petitioners and the State through virtual mode.

At the outset, learned counsel for the petitioners seeks permission to withdraw this application with regard to petitioner



No. 1 namely, Gautam Mandal @ Gautam Kumar as during pendency of this application, he has been taken into judicial custody.

Permission is granted.

Accordingly, this application filed with regard to petitioner No. 1 namely, Gautam Mandal @ Gautam Kumar is dismissed as withdrawn.

The petitioner Nos. 2 & 3 are apprehending their arrest in connection with Ismailpur P.S. Case No. 109 of 2021 registered for the offence under Section-30(a)(b)(c) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

The prosecution case, in short, is that 100 liters wine and 30 Nausadar tablet are recovered.

It has been submitted on behalf of the petitioner Nos. 2 & 3 that they have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against them. The petitioner Nos. 2 & 3 have been falsely implicated in the present case. It is alleged that out of 100 litres, 20 litres wine is said to have been recovered from the co-accused, 25 litres wine is recovered from joint house of petitioner No. 1. Another 20 litres wine is said to have been recovered from joint house of petitioner No. 3 whereas 35 litres wine is recovered from house



of another co-accused. Nothing incriminating has been recovered from the conscious possession of the petitioner Nos. 2 & 3. The petitioner Nos. 2 & 3 had no knowledge regarding the alleged incident. There is no compliance of Section 100 Cr.P.C.

On behalf of the State, it is submitted that the petitioner Nos. 2 & 3 are named in the F.I.R.

It is necessary to indicate here that this Court while considering the prayer made in the present anticipatory bail application has taken note of the exponential rise in number of covid cases due to outbreak of third wave of Covid-19 pandemic. Further this Court can also not lose sight of the fact that the condition of jails is not conducive and suitable to the present situation which has arisen due to the sudden rise in covid cases.

Considering the aforesaid facts and circumstances of the case, the petitioner Nos. 2 & 3, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on their personal bonds to the satisfaction of learned Additional Sessions Judge-II-cum-Special Judge, Excise Act-cum-Special Judge, Vigilance (Trap Act), Bhagalpur in connection with Ismailpur P.S. Case No. 109 of 2021 subject to



the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioner Nos. 2 & 3 shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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