

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6012 of 2022

Arising Out of PS. Case No.-221 Year-2021 Thana- PHULPARAS District- Madhubani

1. Manish Kumar Jaiswal @ Manish Kumar Agrawal Son Of Arun Kumar Chaudhary @ Arun Kumar Jaiswal R/O - Raghapur Simrahi, P.S.- Raghapur, District- Supaul
2. Arun Kumar Chaudhary @ Arun Kumar Jaiswal Son Of Narayan Chaudhary @ Narayan Jaiswal R/O - Raghapur Simrahi, P.S.- Raghapur, District- Supaul

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar Singh, Advocate
For the Opposite Party/s : Mr.Dr. Kumar Uday Pratap, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 17-02-2022 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 petitioner seeks permission of the Court to withdraw this application as the petitioner no. 2 has been taken into judicial custody.

Permission is accorded.

The application is dismissed as withdrawn in respect of petitioner no. 2.

Heard learned counsel for the petitioner no. 1 and learned APP for the State through virtual mode.



Learned counsel for the petitioner no. 1 is directed to remove the defects, as pointed out by the Office, within a period of four weeks after restoration of normalcy.

The petitioner no. 1 is apprehending his arrest in a case registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The prosecution case, in short, is that 3528 liters wine is recovered.

It has been submitted on behalf of the petitioner no. 1 that he has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner no.1. The name of the petitioner no. 1 has come on the basis of secret information as per F.I.R. The source and genuineness of the secret information has not been disclosed by the prosecution. Except for this, there is no other substantive evidence to suggest the implication of the petitioner no. 1 in this case. It is alleged that 3528 liters wine is recovered from container of a truck. The petitioner no. 1 is not the owner of the truck in question. Nothing incriminating has been recovered from the conscious possession of the petitioner no. 1. The petitioner no. 1 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 no. 1 is 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, the petitioner no. 1, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bonds to the satisfaction of learned Additional Sessions Judge -II-cum- Special Judge, Excise Act, Madhubani in connection with Fulparas P.S. Case No. 221 of 2021, G.R. No. 1017 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 no. 1 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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