

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11001 of 2022

Arising Out of PS. Case No.-167 Year-2021 Thana- LAURIA District- West Champaran

1. Malti Devi W/o Birbal Sah @ Chotelal Sah Resident of Village- Tribhawani, P.S.- Bhairoganj, District- West Champaran.
2. Birbal Sah @ Chotelal Sah son of jhegat sah resident of village- tribhawani, p.s.- Bhairoganj, District- West Champaran.
3. Pawan Kumar son of birbal sah @ chotelal sah resident of village- tribhawani, p.s.- Bhairoganj, District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Saket Tiwary, Advocate
For the Opposite Party/s : Ms. Renu Kumari, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 29-08-2022 Heard learned counsel appearing on behalf of the
petitioners and learned APP appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioners seek bail in connection with Lauriya
P.S. Case No. 167 of 2021 registered for the offence under
Sections 302, 328 and 34 of Indian Penal Code and Sections
30(a), 33 and 37(b) of the Bihar Prohibition and Excise Act,
2018.

The accused/petitioners are not named in the F.I.R.
and are in custody since 20.12.2021.



The allegation against the petitioners is to involve in illegal trading of spurious liquor, whereafter consumption, the maternal uncle of the informant died.

Learned counsel appearing on behalf of the petitioners submitted that the present F.I.R. is being lodged after eight days of the occurrence without any just explanation. It is submitted that from bare perusal of the F.I.R., no case u/s 302 of the I.P.C. is made out, particularly, under the circumstances, where specific provision u/s 34(b)(i) has been made out to dealt with such offences. It is further submitted that there is no recovery of illicit liquor from the physical possession of the petitioners. It is also submitted that the allegation is very much general and omnibus. Learned counsel, while travelling over the argument, submitted that in want of post mortem report, it cannot, even, be said that death of maternal uncle of the informant was caused due to consumption of spurious liquor, as alleged. It is submitted that name of the petitioners surfaced on the basis of confessional statement of co-accused, namely, Thag Sah and in furtherance thereof, nothing incriminating surfaced/recovered during the course of investigation, which may connect the petitioners, *prima facie*, with the present set of occurrence. While concluding the argument, it is submitted that investigation in



this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, while opposing the prayer for bail, fairly conceded that post mortem was not conducted in this matter and the allegation is to cause death after consumption of spurious liquor.

In view of the facts and circumstances, as mentioned above, as the cause of death is consumption of liquor, which appears to be doubtful in want of post mortem report or chemical report coupled with the fact that chargesheet has already been submitted, let the petitioners, above named, are directed to be released on bail in connection with Lauriya P.S. Case No. 167 of 2021 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 Special Judge, Excise, Bettiah, West Champaran/concerned Court, subject to the following conditions:

“(i) That accused/petitioners shall not involve in the similar nature of offence till the conclusion of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail



bond of the petitioners.

(ii) That accused/petitioners shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court only on medical ground of the petitioners, duly supported by the documents.

(iii) That one of the bailors shall be Sangita Devi, who is the sister-in-law of petitioner no.1 and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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