

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19475 of 2022

Arising Out of PS. Case No.-185 Year-2017 Thana- SANDESH District- Bhojpur

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1. Rajendra Mushar S/o Fagu Mushar @ Jhagu Mushar Resident of Village - Rampur, P.s.- Sandesh, District - Bhojpur.
 2. Awadesh Mushar S/o Late Naresh Mushar @ Shivjanam Mushar Resident of Village - Rampur, P.s.- Sandesh, District - Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Advocate
For the Opposite Party/s : Mr. APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 22-07-2022 Heard learned counsel appearing on behalf of the petitioners and learned counsel appearing on behalf of the State through virtual Court proceedings.

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

The petitioners seek bail in connection with Sandesh P.S. Case No. 185 of 2017 registered for the offence under Sections 30(a) and 36 of the Bihar Prohibition and Excise Act.

The accused/petitioners are named in the F.I.R. and are in custody since 21.12.2021.

The allegation against the petitioner no.1 is to have in possession of 3 liters of Mahua Jawa and 3 liters of country made liquor and against petitioner no.2 is to have in possession



of 3 liter of Mahua Jawa and 1 liter of country made liquor.

Learned counsel appearing on behalf of the petitioners submitted that recovery is made from the houses of the petitioners, which are jointly occupied by other family members, as such, it cannot be said to be recovered from the conscious physical possession of the petitioners and nothing surfaced during the course of investigation, which may connect the petitioners with the alleged recovery of illicit liquor. While concluding the argument, it is submitted that petitioner no.2 is a man of clean antecedent and, moreover, 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 of bail, fairly conceded that recovery is made from the houses of the petitioners.

Considering the facts and circumstances as mentioned above, as recovery is made from the houses of the petitioners, which are jointly occupied by other family members, as such, it cannot be said to be recovered from the conscious physical possession of the petitioners coupled with the fact that chargesheet has already been submitted, let both the petitioners, above named, are directed to be released on bail in



connection with Sandesh P.S. Case No. 185 of 2017 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 Judge-XI, Bhojpur at Ara/concerned Court, subject to the following conditions:

“(i) 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.

(ii) That one of the bailors shall be Kajal Devi, who is the wife of cousin brother of petitioner no.2 and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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