

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20776 of 2022

Arising Out of PS. Case No.-378 Year-2020 Thana- DALSINGHSARAI District- Samastipur

1. PANKAJ MAHTO SON OF JIBACHH MAHTO R/O- VILLAGE-MORWARA-11, WARD NO- 11 P. S.- BIRAUL, DISTRICT-DARBHANGA
2. DEEPAK KUMAR MAHTO @ SANDEEP SON OF JIBACHH MAHTO R/O- VILLAGE- MORWARA-11, WARD NO- 11 P. S.- BIRAUL, DISTRICT-DARBHANGA

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Krishna Prasad Singh (Sr. Advocate)
	:	Mr. Saket Kumar Singh (Adv.)
For the Opposite Party/s	:	Mr.Shahabuddin Azeem @ S. Azeem

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 01-08-2022 Let the defect(s), as pointed out by the office, be removed within a period of four weeks from today.

Heard learned counsel for the petitioners and learned A.P.P. for the State.

The petitioners seek bail in connection with Dalsinghsarai P.S. Case No. 378 of 2020 registered for the offences punishable under Sections 420, 467, 468, 471, 120(B) of IPC read with Section 30(a), 41(i) of Bihar Prohibition and Excise Act.

As per prosecution case, there is alleged recovery of 2691 litres foreign liquor from the truck in question. The



police apprehended the driver (co-accused) of the said truck. The driver disclosed that Gural Singh (co-accused) is the owner of the aforesaid truck and asked to deliver it to Bihar and it was told that on reaching Begusarai (Bihar) present petitioners and others will establish contact.

Learned counsel for the petitioners submits that petitioners are in custody since 23.12.2021. Petitioners bear criminal antecedent of one case of similar nature. charge sheet has already been submitted in the case and there is no likelihood of tampering with the prosecution evidence. Learned counsel further submits that name of present petitioners has been transpired in this case on confessional statement of co-accused Parvindra Singh. The petitioners have no concern with the alleged seized liquor or truck. No incriminating article has been recovered from possession of the petitioners. Petitioners are not apprehended on spot. There is no compliance of Section 100 Cr.P.C.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioners.

Considering the facts and circumstances of the case as well as period of custody, petitioners are not apprehended on spot and also taking into consideration the material available on



record, let the petitioners above named be released on bail after framing of charge on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) each with two sureties of the like amount each to the satisfaction of learned Special Excise Court-I, Samastipur in connection with Dalsinghsarai P.S. Case No. 378 of 2020, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioners will co-operate in trial and will remain present on all dates and absence for two consecutive dates would be a ground for cancellation of bail by the learned Trial court itself.

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

(Alok Kumar Pandey, J)

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