

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22486 of 2022

Arising Out of PS. Case No.-66 Year-2021 Thana- ATRI District- Gaya

1. Vinay Kumar Son Of Kamlesh Yadav R/O Village- Chahal Mundera, P.S.- Atri, District- Gaya
2. Suraj Kumar Son Of Shivjee Yadav R/O Village- Chahal Mundera, P.S.- Atri, District- Gaya
3. Sanjeet Kumar Son Of Ramashish Yadav R/O Village- Chahal Mundera, P.S.- Atri, District- Gaya
4. Shyam Sunder Yadav @ Shyam Sunder Kumar Son Of Ramanand Yadav R/O Village- Chahal Mundera, P.S.- Atri, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arvind Kumar Singh, Advocate
For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, A.P.P.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 15-07-2022 Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Arvind Kumar Singh, learned counsel for the petitioners and learned APP for the State through video conference.

The petitioners seek regular bail, who are in custody in connection with Atri P.S. Case No. 66 of 2021 for the offences punishable under Sections 272 and 273 of the Indian Penal Code and Section 30(a) (d) of the Bihar Prohibition and



Excise (Amendment) Act, 2018.

As per prosecution case, it is alleged that the police on a secret information that some persons are engaged in preparation of illicit Mahua liquor, raided the place of occurrence and on search being made total 80 litres of Mahua wine was recovered alongwith other utencils and apparatuses. It is further alleged that local people, who were working in the field, disclosed the name of total nine persons including these petitioners.

It is submitted by the learned counsel appearing on behalf of the petitioners that the petitioners were neither arrested at the spot nor any incriminating materials have been recovered from the persons or possession of these petitioners. It is also submitted that except the disclosure made by the local people there is no other material, which suggests the complicity of the petitioners in the present crime. It is next submitted that the alleged recovery has been made from an open place, accessible to all and does not belong to these petitioners. It is lastly submitted that these petitioners are in custody since 08.01.2022, however, only because of their past criminal antecedent their names have been implicated in this case.

On the other hand, learned APP for the State opposes



the bail application and submits that the petitioners are habitual offenders.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that the petitioners were neither arrested at the spot nor any incriminating material has been recovered from the persons or possession of this petitioners and the petitioners are in custody since 08.01.2022, though the investigation of the crime is already completed and charge sheet has been submitted in this case, let the petitioners, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Exclusive Excise Court No.1, Gaya in connection with Atri P.S. Case No. 66 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioners with further conditions which are as follows:-

- (i) The petitioners will cooperate in conclusion of the trial.
- (ii) They will remain present on each and every date of trial till disposal of the case.
- (iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.



(iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioners and in case, at any stage, it is found that the petitioners have concealed their criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioners. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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