

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21858 of 2022

Arising Out of PS. Case No.-391 Year-2021 Thana- NADI P.S. District- Patna

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1. BAIJNATH MAHTO Son of Baldeo Mahto Resident of Village - Gulmahiya Chak, P.S.- Nadi, Distt.- Patna.
 2. RAJESH KUMAR SON OF BAIJNATH MAHTO Resident of Village - Gulmahiya Chak, P.S.- Nadi, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jay Ram Prasad, Advocate

For the Opposite Party/s : Ms.Renu Kumari, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 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 Nadi P.S. Case No. 391 of 2021 registered for the offence under Section 30(a) of the Bihar Prohibition and Excise Act, 2018.

The accused/petitioners are named in the F.I.R. and are in custody since 13.02.2021.

The allegation against the petitioners is to be engaged in illegal trading/manufacturing of illicit liquor, where, there is



recovery of 270 litres of IMFL/country made liquor.

Learned counsel appearing on behalf of the petitioners submitted that as recovery of illicit liquor is made from the open place, as per FIR, and as such it cannot be said to be recovered from conscious physical possession of the petitioners. It is also submitted that the name of the petitioners surfaced on the basis of secret information, where nothing incriminating recovered during course of investigation. It is also submitted that petitioner no.1 involved in one(1) criminal case and petitioner no.2 is a man of clean antecedent. While concluding the argument, it has been submitted that investigation has been completed, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, fairly conceded the fact that alleged recovery of illicit liquor was made from the open place, as per seizure list.

Considering the facts and circumstances as mentioned above, as the alleged recovery of illicit liquor has not been made from the conscious physical possession of the petitioners, rather same is from open field, coupled with the fact that charge-sheet has been submitted, let both the petitioners, above named, are directed to be released on bail in connection with Nadi P.S. Case



No. 391 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, Patna City/concerned court, subject to the following conditions:

“(i) That 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 petitioner.

(ii) 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 Santosh Kumar @ Santosh Mahto, who is the Son of the petitioner no.1 and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

R.S.Sen/-

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