

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23270 of 2022

Arising Out of PS. Case No.-37 Year-2022 Thana- PANJWARA District- Banka

1. NAYAN YADAV Son of Jaikrishna Yadav @ Rinku Yadav Resident of Village - Dropad, P.s.- Poraiya Hat, Distt.- Godda, Jharkhand.
2. Nitesh Yadav Son of Subodh Yadav Resident of Village - Dropad, P.s.- Poraiya Hat, Distt.- Godda, Jharkhand.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bijendra Kumar Singh

For the Opposite Party/s : Mr. Braj Kishore Pd.(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 Panjwara P.S. Case No. 37 of 2022 registered for the offence under Sections 30(a) and 32(2) of the Bihar Prohibition and Excise Act, 2018.

The accused/petitioners are named in the F.I.R. and are in custody since 16.03.2022.

The allegation against the petitioners is to be engaged



in illegal trade of illicit liquor, where, there is recovery of 83.625 litres of IMFL.

Learned counsel appearing on behalf of the petitioners submitted that petitioner no.1 was driver and petitioner no.2 was passenger of alleged vehicle, from where recovery has been made, was jointly occupied by the other co-accused persons, as such, it cannot be said that the alleged recovery has been made from the conscious physical possession of the petitioners. It has further been submitted that petitioner no.1 is involved in three other cases, in which, he is on bail and petitioner no.2 is a man of clean antecedent. While concluding the argument, it has been submitted that investigation of this case has been completed, for which, charge-sheet has already 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 recovery was made from jointly occupied car.

Considering the facts and circumstances as mentioned above, as the alleged recovery has not been made from the conscious physical possession of the petitioners coupled with the fact that charge-sheet has already been submitted, let both the petitioners, above named, are directed to be released on bail



in connection with Panjwara P.S. Case No. 37 of 2022 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 and Sessions Judge-Vth, Banka/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 petitioners.

(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 Jay Krishna Yadav, who is the father of the petitioner no.1 and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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