

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25040 of 2022

Arising Out of PS. Case No.-146 Year-2021 Thana- NIRMALI District- Supaul

1. UMESH YADAV,
2. Jyotish Yadav
Both sons S/o Kameshwar Yadav R/o village- Rasuaar Kyotapatti Ward No.
01, P.S.- Supaul Nadi, District- Supaul.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kamal Kishore Singh

For the Opposite Party/s : Mr.Sanjay Kumar Tiwary

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 29-07-2022 Learned counsel for the petitioner has filed
supplementary affidavit for criminal antecedent.

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 through virtual mode.

The petitioners seek bail in connection with Sessions
Trial Excise No.1046/2021 arising out of Nirmali P.S. Case No.
146/2021 registered for the offences punishable under Section
30(a) of the Bihar Prohibition and Excise Act, 2018.

As per prosecution case, there is alleged recovery of
total 1464 liters foreign liquor from the truck in question. Police
has got secret information that the petitioners and others are
bringing consignment of liquor. Petitioners were not



apprehended on the spot.

Learned counsel for the petitioners submits that petitioners are innocent and have falsely been implicated in this case. Petitioners are not apprehended on the spot and nothing has been recovered from the conscious possession of the petitioners. As per FIR, name of these petitioners have been transpired during the course of query by the petrolling party from the villagers who said the name of these petitioners merely on suspicion. Petitioners are neither driver nor owner of the said truck in question. Seizure list has not been made as per law. The petitioners are languishing in custody since 07.03.2022. Petitioner no.1 bears criminal antecedent of five cases in which three cases of similar nature (as mentioned through supplementary affidavit) and petitioner no.2 bears criminal antecedent of three cases in which he is on bail. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence.

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

Considering the facts and circumstances of the case, period of custody, petitioners are not apprehended on the spot, charge sheet has already been submitted and also taking into



consideration the material available on record, let the petitioner no.1 above named be released on bail **after framing of charge** and petitioner no.2 above named 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 A.D.J.-Vth cum Special Judge, Excise, Supaul in connection with S.T. No. 1046/2021 arising out of Nirmali P.S. Case No.146/2021, 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 without appropriate permission, 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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