

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24598 of 2022

Arising Out of PS. Case No.-306 Year-2021 Thana- MANJHAGARH District- Gopalganj

1. Siv Kumar Chaudhari @ Shiv Kumar Chaudhary, Son of Asharfi Chaudhari, R/O Village- Jagarnatha Badai Tolla, P.S.- Manjhagarh, District- Gopalganj
2. Siv Narayan Chaudhari @ Shiv Narayan Chaudhary, Son of Late Nathuni Manjhi, R/O Village- Jagarnatha Badai Tolla, P.S.- Manjhagarh, District- Gopalganj
3. Radha Krishna Chaudhari @ Radha Krishna Chaudhary, Son of Late Chanarjit Chaudhari, R/O Village- Jagarnatha Badai Tolla, P.S.- Manjhagarh, District- Gopalganj
4. Krishna Chaudhary @ Krishna Choudhary, Son of Late Dasrath Chaudhary, R/O Village- Jagarnatha Badai Tolla, P.S.- Manjhagarh, District- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pritish Ranjan, Advocate

For the Opposite Party/s : Mr. Shakir Ahmad, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 27-07-2022 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. Pritish Ranjan, learned counsel appearing on behalf of the petitioners and the learned APP for the State.

The petitioners seek regular bail, who are in custody in connection with Manjhagarh P.S. Case No. 306 of 2021 registered for the offences punishable under Sections 30(a), 30(b), 30(c), 37(b), 37(c) 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 preparing illegal wine, raided the place of occurrence and it is alleged that 400 litres of Semi manufactured wine was recovered from the thatched house of Shiv Kumar Chaudhary and co-accused Raj Kumar Chaudhary and also 450 litres of semi manufactured wine was recovered behind the house of Krishna Chaudhary (petitioner no.4) and it is further alleged that about 500 liters of semi manufactured wine was also recovered behind the house of Shiv Narayan Chaudhary and Krishna Chaudhary (petitioner nos. 3 and 4). It is further alleged that 25 litres of country made liquor was also recovered form the house of petitioner no.1 whereas 20 litres of country made liquor was recovered form the house of petitioner no.2.

It is submitted by the learned counsel appearing on behalf of the petitioners that all the recovery have been made from the joint possession of the family members of all the petitioners and not the respective house of the petitioners. It is further submitted that there is complete violation of provision of Section 100(6) of the Cr.P.C., inasmuch, as these petitioners are in custody since 03.01.2022 having fair antecedent, though the investigation of the crime is already completed and charge-sheet



has been submitted. It is also submitted that neither the petitioners were arrested at the spot nor any incriminating material has been recovered from their possession.

On the other hand, learned APP for the State opposes the bail application and submits that the petitioners have been found involved in preparing and possessing of illegal liquor and they are named in the F.I.R.

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 actual conscious possession of the petitioners, rather the recovery has been made from the joint family house and moreover after conclusion of the investigation, charge-sheet has been submitted, apart from the fact that the petitioners are in custody since 03.01.2022 having fair antecedent, let the petitioners, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II-cum-Special Judge, Excise Court No.-I, Gopalganj in connection with Manjhagarh P.S. Case No. 306 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.

(Harish Kumar, J)

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