

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26877 of 2022

Arising Out of PS. Case No.-104 Year-2020 Thana- MINAPUR District- Muzaffarpur

1. Subodh Rai @ Subodh Kumar Son of Mahesh Rai Resident of Village - Mahdeiya Raghapur, P.s.- Meenapur, Distt.- Muzaffarpur, Bihar.
2. Nitish Kumar Son of Rameshwar Rai Resident of Village - Mahdeiya Raghapur, P.s.- Meenapur, Distt.- Muzaffarpur, Bihar.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

with

CRIMINAL MISCELLANEOUS No. 27026 of 2022

Arising Out of PS. Case No.-104 Year-2020 Thana- MINAPUR District- Muzaffarpur

1. Ram Swarth Rai @ Ramsuhag Kumar Yadav Son of Mahesh Ray Resident of village - Mahdeiya Raghapur, P.S.- Meenapur, District - Muzaffarpur, State - Bihar.
2. Ram Bahadur Rai Son of Mahesh Ray Resident of village - Mahdeiya Raghapur, P.S.- Meenapur, District - Muzaffarpur, State - Bihar.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

(In CRIMINAL MISCELLANEOUS No. 26877 of 2022)

For the Petitioner/s : Mr. Nachiketa Jha, Advocate

For the Opposite Party/s : Mr. A.G.

(In CRIMINAL MISCELLANEOUS No. 27026 of 2022)

For the Petitioner/s : Mr. Nachiketa Jha, Advocate

For the Opposite Party/s : Mr. A.G

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 29-07-2022 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 Minapur, P.S. Case No. 104 of 2020 registered for the offence under Sections 272,272/414 of the IPC and under Sections 30(a), 41(1) of the Bihar Prohibition and Excise Act, 2018.

The accused/petitioners are named in the F.I.R. and are in custody since 23.03.2022.

The allegation against the petitioners are to be engaged in illegal trade of illicit liquor, where, there is recovery of 194.76 litres of IMFL/country made liquor from the house of petitioner.

Learned counsel appearing on behalf of the petitioners submitted that the name of the petitioners disclosed by certain unknown villagers, where nothing surfaced during the course of investigation to suggest the alleged recovery of illicit liquor from the petitioners. It is submitted that it is not a case, where illicit liquor has been recovered from the possession of the petitioners. It is also submitted that the seizure list is disputed, for the reason that it is not supported by independent witnesses, appearing in violation of provision 100(4) of the Cr.P.C. 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 the recovery has not been made from the physical possession of the petitioners, as per seizure list and fairly conceded that the same has not been supported by independent witnesses.

Considering the facts and circumstances as mentioned above, as recovery of illicit liquor is not made from the conscious physical possession of the petitioners, where the seizure list is disputed coupled with the fact that charge-sheet has been submitted, let the petitioners, above named, are directed to be released on bail in connection with Minapur P.S. Case No. 104 of 2020, dated 27.03.2020 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No.-1, Muzaffarpur, 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 Ram Pramod Kumar, who is the brother of the petitioner no.-1 and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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