

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27042 of 2022

Arising Out of PS. Case No.-175 Year-2022 Thana- MOHANIYA District- Kaimur (Bhabua)

MD. SHAMMI S/o Reyaz Ahmad R/o- Idgah Colony, P.S.- Behjoi Dehat,
District- Sambal (U.P.)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 28129 of 2022

Arising Out of PS. Case No.-175 Year-2022 Thana- MOHANIYA District- Kaimur (Bhabua)

MOHAN LAL S/o Bahuri Lal R/o Shiv Mandir, Bhagipur, P.S. - Kotwali
Nagar, District - Etta (U.P.)

... .. Petitioner/s

Versus

THE STATE OF BIHAR BHABHUA

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 28300 of 2022

Arising Out of PS. Case No.-175 Year-2022 Thana- MOHANIYA District- Kaimur (Bhabua)

NUMAN SON OF MUSHTAQUE R/O- IDGAH COLONY, P.S.- BEHJOI
DEHAT, DISTRICT- SAMBAL (U.P.)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 27042 of 2022)

For the Petitioner/s : Mr. Abhash, Advocate.

For the Opposite Party/s : Mr. Md. Iftekhar Mahmood, APP.

(In CRIMINAL MISCELLANEOUS No. 28129 of 2022)

For the Petitioner/s : Mr. Raju Kumar, Advocate.

For the Opposite Party/s : Mr. Md. Iftekhar Mahmood, APP.

(In CRIMINAL MISCELLANEOUS No. 28300 of 2022)

For the Petitioner/s : Mr. Abhash, Advocate.

For the Opposite Party/s : Mr. Amitesh Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR



ORAL ORDER

3 11-08-2022 Learned counsel for the petitioners is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Abhash, learned counsel for the petitioners as well as learned Additional Public Prosecutor for the State.

With the consent of the parties, both the matters are being heard together and disposed of by the common order.

The application for grant of bail to the petitioners, above named, who have been made accused and put behind the bar in connection with Mohania P. S. Case No. 175 of 2022 registered for the offences punishable under Sections 420 read with 34 of the Indian Penal Code and Sections 30 (a) and 41(1) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

As per the prosecution case, it is alleged that the Police, on a secret information, apprehended a truck and on search being made 2952 litres Indian made foreign liquor was recovered. It is further alleged that all the three petitioners were apprehended, who were driver and co-drivers of the truck respectively.

Learned counsel appearing on behalf of the petitioners submitted that the petitioners being driver and co-driver of the truck were not even aware as to what was being



loaded by the consigner of the goods in as much as the truck runs for the transportation of goods and it is the transporter/consigner who was responsible for loading and unloading of the goods. It is further submitted that all the petitioners have no criminal antecedent and they are in custody since 05.04.2022 and they are ready to give undertaking that they will fully cooperate in the trial till its conclusion. It is next submitted that there are infirmities in preparation of the seizure list and the same is in violation of the Section 100 Cr.P.C. It is also submitted that the investigation of the crime is already completed and the charge sheet has been submitted.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that a huge consignment of illicit wine has been recovered from the truck and the petitioners were said to be driver and co-drivers arrested at the spot.

Having considered the submissions made on behalf of the parties and taking into account the fact that the petitioners are driver and co-drivers of the truck and they are in custody since 05.04.2022, having fair antecedent and moreover, the investigation of the crime is already completed and the charge sheet has been submitted and there is no likelihood of



commencement of trial in near future, let the petitioners, above named, 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, Kaimur at Bhabhua in connection with Mohania P. S. Case No. 175 of 2022, 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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