

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43084 of 2021**

Arising Out of PS. Case No.-40 Year-2020 Thana- BHAGALPUR RAIL P.S. District-
Bhagalpur

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1. Mukesh Nishad Son of Late Mahesh Nishad Resident of Village- Lailakh, P.S.- Sabour, District- Bhagalpur.
 2. Dharma Mahaldar @ Dharmendra Son of Pakko @ Prakash Mandal Resident of Village- Lailakh, P.S.- Sabour, District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha, Advocate

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

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

2 04-02-2022 Heard learned counsel for the petitioners and learned
A.P.P. for the State through virtual court proceedings.

The petitioners seek bail in connection with Bhagalpur Rail P.S. Case No. 40 of 2020 instituted for the offences under Sections 147, 148, 149, 353, 307, 504 and 506 of the Indian Penal Code read with Section 27 of the Arms Act and Section 30(a) of the Bihar Prohibition and Excise Act.

Learned counsel for the petitioner submits that the petitioner no.1 is in custody since 11.12.2020, petitioner no. 2 is in custody since 11.01.2021, petitioner no.2 is a person with clean antecedent, petitioner no. 1 has antecedent of three cases and charge-sheet has been submitted in the case.



Learned counsel for the petitioners submits that informant alleges that 42 litres of liquor was recovered from a jute bag which was thrown by some accused persons from the train and the petitioners along with others had come to pick the bag, then the informant reached but the accused managed to flee and later named accused persons including petitioners along with 25-30 unknown persons came to take the bag and even assaulted the informant and police personnel but fled when reinforcement was called.

Learned counsel for the petitioners submits that the petitioners were not arrested from the spot and further the F.I.R. does not disclose how the petitioners were identified and further that one of the petitioners i.e. petitioner no. 2 has been falsely implicated.

Learned A.P.P. for the State vehemently opposes the prayer for regular bail of the petitioners.

Considering the fact that the petitioners are in custody, charge-sheet has been submitted, petitioners were not arrested from the spot, the F.I.R. does not disclose how the petitioners were identified and as far as allegation of assault is concerned, there is no allegation of any injury, let the petitioners above named be released on bail on furnishing bail bond of Rs.



20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Second Additional District and Sessions Judge-cum-Special Judge, Excise Act, Bhagalpur in connection with Bhagalpur Rail P.S. Case No. 40 of 2020 with a condition that one of the bailor of the petitioner no.1 shall be his brother, namely, Sunil Kumar and in the event if the petitioner no. 1 is implicated in a case of similar nature, the court below will be at liberty to cancel his bail bonds.

(Satyavrat Verma, J)

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