

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29208 of 2022

Arising Out of PS. Case No.-523 Year-2020 Thana- MUZAFFARPUR SADAR District-
Muzaffarpur

-
1. MAHARAJA KUMAR,
 2. Shanu Kumar,
Both sons S/o Anuj Kumar @ Anuj Kumar Singh Resident of Village-
Bikharipura, P.S.- Sadar, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Neeraj Kumar

For the Opposite Party/s : Mr.Rabindra Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 05-08-2022 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.

The petitioners seek bail in connection with
Muzaffarpur (Sadar) P.S. Case No. 523/2020 registered for the
offences punishable under Section 30(a) of the Bihar Prohibition
and Excise Act, 2016.

As per prosecution case, the informant has alleged
that he received information that two groups quarrelled and
firing has taken place in which Raj Kumar has sustained injury
in his hand. Police recovered one empty cartridge and a live



cartridge from place of occurrence and arrested co-accused Anuj Kumar and Prakash Kumar while Maharaja Kumar and Sanu Kumar (petitioners) fled away. One motorcycle and one car in question were recovered from the place of occurrence which are totally smashed condition. There is alleged recovery of total 4.5 liters foreign liquor from the house of the petitioners. The petitioners were not apprehended on the spot. Apprehended co-accused, Anuj Kumar and Prakash Kumar disclosed the name of the petitioners who fled away from the place of occurrence.

Learned counsel for the petitioners submits that petitioners are innocent and have falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioners. The petitioners were not apprehended on the spot. On the basis of confessional statement of co-accused, Anuj Kumar and Prakash Kumar the name of the petitioners sprang up in this case. He further submits that the final report was submitted on 18.08.2021 under Section 30 (a) of the Bihar Prohibition and Excise Act, 2016. There is no specific observation in the final report against the petitioners of using the firm arms and nothing had been recovered from their possession or during the course of investigation. The petitioners were neither arrested from the place of occurrence nor during the raid



conducted by the police force during the course of investigation. The petitioner no.1 is languishing in custody since 15.07.2021 and bears criminal antecedent of three cases in which two cases are of similar nature and he is on bail in all cases. The petitioner no.2. is languishing in custody since 07.08.2021 and bears criminal antecedent of one case 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 co-accused, Anuj Kumar @ Anuj Kumar Singh & Prakash Kumar have already been granted bail by the co-ordinate Benches of this Court vide Cr. Misc. No.5331/2021 & Cr. Misc. No.36733/2021 respectively. The case of the present petitioners stand on better footing.

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 as well as period of custody, petitioner were not apprehended on the spot, charge sheet has already been submitted and 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 bond of Rs. 10,000/- (Rupees Ten Thousand)



each with two sureties of the like amount each to the satisfaction of learned 15th Additional District and Sessions Judge, Muzaffarpur (Special Judge, Excise, Muzaffarpur in connection with Muzaffarpur (Sadar) P.S. Case No. 523/2020, 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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