

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29819 of 2022

Arising Out of PS. Case No.-154 Year-2022 Thana- PHULWARIYA District- Gopalganj

1. AMIT KUMAR SON OF SUDHIR KUMAR YADAV RESIDENT OF VILLAGE- ROHAR DIYAR , PS- SONPUR , DIST- SARAN
2. AKHILESH KUMAR SON OF KAMESHWAR RAY RESIDENT OF VILLAGE- ROHAR DIYAR , PS- SONPUR , DIST- SARAN

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nilendu Kumar Choudhary, Advocate

For the Opposite Party/s : Mr. Anil Kumar Singh No. 1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 08-07-2022 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 Phulwariya P.S. Case No. 154 of 2022 registered for the offence under Section 30(a) of the Bihar Prohibition and Excise Act, 2018.

The accused/petitioners are named in the F.I.R. and are in custody since 04.04.2022.

The allegation against the petitioners is to be engaged



in illegal trade of illicit liquor, where, there is recovery of 432 litres of illicit IMFL.

Learned counsel appearing on behalf of the petitioners submitted that recovery has been made from alleged vehicle, which was jointly occupied by other co-accused persons, as such, it cannot be said that recovery has been made from conscious physical possession of the petitioners. It has further been submitted that petitioner no.1 is involved in one case, in which, he is on bail and petitioner no.2 is a man of clean antecedent. While concluding the argument, it has been submitted that mandatory provision of Section 100 of Cr.P.C. has not been complied with, in the present case.

Learned APP, while opposing the prayer of bail, fairly conceded the fact that alleged recovery has been made from alleged car, which was jointly occupied by the other co-accused persons.

Considering the facts and circumstances as mentioned above, as alleged recovery has not been made from the conscious physical possession of the petitioners, let both the petitioners, above named, are directed to be released on bail in connection with Phulwariya P.S. Case No.154 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with



two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-II-cum-Special Excise Court-In, Gopalganj/concerned court, 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.

(ii) That one of the bailors shall be Mukesh Kumar, who is the cousin uncle of the petitioner no. 1 and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

S.Katyayan/
R.S. Sen/-

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