

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31143 of 2022

Arising Out of PS. Case No.-41 Year-2022 Thana- OBRA District- Aurangabad

1. Deepak Kumar S/o Sri Ram Uchit Mahto R/o Village- Thepri, P.S.- Piyar, District- Muzzafarpur, Bihar, Presently residing at Jhuggi No.2, Jamuna Khadar Thokar No.10, Shakarpur, East Delhi, Delhi-110092
2. Gopal Kumar S/o Daroga Rai R/o Kalaunjar Bharaw, P.s.- Chekmehsi, District- Samastipur, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Shri Prakash Tiwari, Advocate
For the Opposite Party/s : Ms. Veena Rani Prasad, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 08-08-2022 Heard learned counsel appearing on behalf of the
petitioners and learned APP appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioners seek bail in connection with Obra P.S.
Case No. 41 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 28.01.2022.

The allegation against the petitioners is to have in
possession of 899 liters of foreign liquor, which was seized from
a truck bearing Registration no. DL 1 LR 8810.



Learned counsel appearing on behalf of the petitioners submitted that petitioner no.1 is the driver and petitioner no.2 is the khalasi of the alleged truck, from where recovery of illicit liquor was made. It is submitted that nothing surfaced during the course of investigation, which may suggest that petitioners were aware about the illegal consignment, loaded in the truck and, as such, it cannot be said that recovery of illicit liquor was made from the conscious physical possession of the petitioners. While concluding the argument, it is submitted that petitioners are persons of clean antecedent and, moreover, investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, while opposing the prayer for bail, fairly conceded that petitioners are the driver and khalasi of the alleged vehicle.

In view of the facts and circumstances, as mentioned above, as recovery of illicit liquor cannot be said to be made from the conscious physical possession of the petitioners, who are the persons of clean antecedent coupled with the fact that chargesheet has already been submitted, let both the petitioners, above named, are directed to be released on bail in connection with Obra P.S. Case No. 41 of 2022 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 Additional District and Sessions Judge-IX-cum-Special Judge Excise-II, Aurangabad/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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