

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32029 of 2022

Arising Out of PS. Case No.-133 Year-2021 Thana- ARER District- Madhubani

1. MITHILESH YADAV @ MITHU Son of Yugal Kishore Yadav Resident of Village - Brahmotara (Kokai Tole), P.S. - Arer, District - Madhubani.
2. SURESH MANDAL S/o- Mangal Mandal Resident of Village - Brahmotara (Khatbey Tole), P.S. - Arer, District - Madhubani.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ratanakar Jha

For the Opposite Party/s : Mr.Arun Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 10-08-2022 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 Arer P.S. Case No. 133 of 2021 registered for the offences punishable under Sections 272, 273/34 of Indian Penal Code read with Section 30(a) of the Bihar Prohibition and Excise Amendment Act.

As per prosecution case, there is alleged recovery of 153.81 litres foreign liquor from the place of occurrence. The petitioners alongwith others fled away from the place of



occurrence.

Learned counsel for the petitioners submits that petitioners are in custody since 10.03.2022. Petitioners bear no criminal antecedent. Charge sheet has already been submitted in the case and there is no likelihood of tampering with the prosecution evidence. Learned counsel further submits that nothing has been recovered from the possession of the petitioners. The alleged liquor has been recovered from the asbestos built house which is a joint family house. The petitioners have no concern with the alleged recovered liquor. The petitioners are not apprehended on spot. Name of petitioners has been transpired in this case on secret information. There is no compliance of Section 100 of the Cr.P.C.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case as well as period of custody, petitioners are not apprehended on spot, charge-sheet has already been submitted and there is no likelihood of tampering with the prosecution evidence, keeping in view clean antecedent of the petitioners and also taking into consideration the material available on record, let the petitioners



above named be released on bail 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 Sessions Judge – II-cum-Special Judge, Excise Act, Madhubani in connection with Arer P.S. Case No. 133 of 2021 corresponding to G.R. No. 2537 of 2021, 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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