

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31375 of 2022

Arising Out of PS. Case No.-351 Year-2021 Thana- PHULWARIYA District- Gopalganj

NITISH KUMAR SAH S/o- Prem Chand Sah R/o Koyla Deva, P.S.-
Fulwaria, District- Gopalganj.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 36021 of 2022

Arising Out of PS. Case No.-351 Year-2021 Thana- PHULWARIYA District- Gopalganj

JANU KUMAR SON OF PREM CHAND SAH Resident of Koyla Deva, P.S.
Fulwaria, District- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 31375 of 2022)

For the Petitioner/s : Mr.Ranjan Kumar Srivastava

For the Opposite Party/s : Mr.Nityanand

(In CRIMINAL MISCELLANEOUS No. 36021 of 2022)

For the Petitioner/s : Mr.Ranjan Kumar Srivastava

For the Opposite Party/s : Mr.Pronoti Singh

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 08-08-2022 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 Phulwaria
P.S. Case No. 351/2021 registered for the offences punishable
under Section 30(b) of the Bihar Prohibition and Excise
Amendment Act, 2018.



As per prosecution case, there is alleged recovery of total 88 liters illegal wine from the motorcycle in question. The petitioner, Janu Kumar was apprehended on the spot and he disclosed the name of petitioner Nitish Kumar Sah 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 are languishing in custody since 23.09.2021. The petitioner, Nitish Kumar Sah bears no criminal antecedent and the petitioner, Janu Kumar bears criminal antecedent of three cases of similar nature. He further submits that the petitioners have neither concerned with the said motorcycle nor alleged to seized illegal liquor. Seizure list has not been prepared as per law. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence.

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, period of custody, charge sheet has already been submitted and also taking into consideration the material available on record,



let the petitioner, Janu Kumar above named be released on bail **after framing of charge** and the petitioner, Nitish Kumar Sah 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 Additional District and Sessions Judge-II cum Excise Court-I, Gopalganj in connection with Phulwaria P.S. Case No. 351/2021, 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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