

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38261 of 2022

Arising Out of PS. Case No.-268 Year-2022 Thana- SHEKHPURA District- Sheikhpora

1. Nandlal Yadav Son Of Thanu Yadav R/O Village- Ojhabathan, P.O.- Tetriya, P.S.- Suia, Distt.- Banka (BIHAR)
2. Pritam Kumar Son Of Sri Shankar Yadav R/O Village- Malibathan, P.O.- Bhitia, P.S.- Fulli Dumar, Distt.- Banka(Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bivutosh Kumar, Advocate.
For the Opposite Party/s : Mr. Abhay Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 16-09-2022 Learned counsel for the petitioners is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Bivutosh Kumar, learned counsel for the petitioners as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioners, above named, who have been made accused and put behind the bar in connection with Sheikhpora (Sirari Observation Post -O.P.) P. S. Case No. 268 of 2022 giving rise to Excise Case No. 265 of 2022 registered for the offences punishable under



Sections 30 (a), 32, 41 of the Bihar Prohibition and Excise (Amendment) Act, 2018.

As per the prosecution case, It is alleged that from a Maruti S Presso vehicle 153 litres of illicit wine has been recovered. It is also alleged that from a Bolero vehicle bearing registration no. BR51P-1897, total 117 litres Indian made foreign liquor was also recovered and the petitioners were found sitting in the Maruti S Presso vehicle.

Learned counsel appearing on behalf of the petitioners submitted that the petitioners are neither owner of the vehicle nor any way concern with the alleged recovered wine. It is next submitted that there is no compliance of Sections 81-82 of the Bihar Prohibition and Excise Act, 2016, apart from non-compliance of Section 100(4) of the Cr.P.C. It is further submitted that the petitioner were only the passer-by but when the police intercepted the vehicle all the persons started fleeing away and in the meantime, the police on suspicion apprehended the petitioners. It is also submitted that the petitioners having fair antecedent, are in custody since 18.05.2022 and the investigation of the crime is already completed and the charge sheet has been submitted.

On the other hand, learned APP for the State



opposes the bail application and submits that the petitioners were apprehended from the spot.

Regard being had to the submissions made on behalf of the parties and taking into account the fact that petitioners having fair antecedent, are in custody since 18.05.2022 and moreover, the investigation of the crime is already completed and there is no likelihood of the commencement of trial in near future, let the petitioners, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge- II, Sheikhpura in connection with Sheikhpura (Sirari O.P.) P. S. Case No. 268 of 2022 giving rise to Excise Case No. 265 of 2022, subject to the condition that one of the bailors will be the close relative of the petitioners with further conditions which are as follows:-

- (i) The petitioners will cooperate in conclusion of the trial.
- (ii) They will remain present on each and every date of trial till disposal of the case.
- (iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of



trial.

(iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.

(Harish Kumar, J)

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