

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38049 of 2022

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

1. ASHISH KUMAR SAH @ AASHISH KUMAR SHAH S/O LATE SHIV JATAN SAH Resident of village- Paharidih, P.S.- Sonaraythari, District- Deoghar, State- Jharkhand.
2. SUNNI KUMAR S/O LATE MANTU SAH @ MANTU SAW Resident of Village- Bhitia, P.S.- Fulli Dumar, District- Banka, State- Bihar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kamlesh Kumar Singh, Advocate.

For the Opposite Party/s : Mr. Akhileshwar Dayal, 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. Kamlesh Kumar Singh, 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 Sheikhpura (Sirari 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 Bolero vehicle bearing registration no. BR51P-1897, total 117 litres Indian made foreign liquor was recovered and the petitioners were found sitting in the Bolero vehicle. It is also alleged that from another vehicle 153 litres of illicit wine has also been recovered.

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 petitioners 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 Observation Post-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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