

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38525 of 2022

Arising Out of PS. Case No.-415 Year-2019 Thana- GOGRI District- Khagaria

1. Rohit Singh Son Of Mukesh Singh Resident Of Village Haripur P.S.- Gogri, District- Khagaria
2. Gaurav Kumar Son Of Pradeep Kumar @ Pradeep Singh Resident Of Village- Haripur P.S.- Gogri, District- Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bharat Bhushan, Advo

For the Opposite Party/s : Mr. Ajit Kumar, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 16-09-2022 Let the defects, if any, be removed within four weeks from today.

Heard learned counsel for the petitioners as well as learned Additional Public Prosecutor for the State through video conferencing.

Petitioners seek bail in a case registered in connection with Gogri P.S. Case No. 415 of 2019 for the offences punishable under Sections 30(a) of the Bihar Excise (Prohibition) Amendment Act.

As per prosecution case, it is alleged that the police on a secret information raided the back side of Basa of the petitioner no. 1 however, on noticing the police party,



two persons succeeded to flee away, who was recognized by the local chawkidar and on search total 63 liters foreign made liquor was recovered from Bhuskhar.

Learned counsel for the petitioners submits that the petitioners were neither arrested at the spot nor any incriminating article has been recovered from person and possession of the petitioners. So far as the alleged recovery which was made from Bhuskhar is concerned that does not belong to the petitioner, apart from the same is open and easily accessible to all. He next submits that there is no compliance of section 81 and 82 of the Bihar Prohibition & Excise Act 2016. He further submits that only because of one past criminal antecedent, their names have been implicated in this case. He further submits that petitioner no. 1 is in custody since 22.04.2022 and petitioner no. 2 is in custody since 17.06.2022 and moreover, the investigation of the crime is already completed.

On the other hand, learned counsel for the State opposed the bail application and submits that petitioners have named in one another case.

Regard being had to the submission made on



behalf of the parties and considering the fact that petitioners were neither arrested at the spot nor any incriminating material has been recovered from persons or possession and so far as the alleged recovery is concerned that has been made from Bhuskhar, which does not belong to the petitioners, let the petitioners, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge cum Special Judge, Excise-I, Khagaria in connection with Gogri P.S.Case No. 415 of 2019 subject to the condition that one of the bailors will be the close relatives 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.

(v) The Court below shall verify the criminal antecedent of the petitioners and in case at any stage, it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancelling of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above- mentioned order shall not be delayed for purpose of or in the name of verification.

(Harish Kumar, J)

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