

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38317 of 2022

Arising Out of PS. Case No.-456 Year-2019 Thana- SAHEBGANJ District- Muzaffarpur

1. GAURI MUKHIYA S/o Jaleshwar Mukhiya R/o village- Bangra Nizamat, P.S.- Sahebganj, District- Muzaffarpur
2. Raju Mukhiya S/o Chuvata Mukhiya R/o village- Bangra Nizamat, P.S.- Sahebganj, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate.

For the Opposite Party/s : Mr. Pawan Kumar Chaurasia, 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. Manoj 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 Sahebganj P. S. Case No. 456 of 2019 registered for the offences punishable under Sections 272, 273, 414/34 of the Indian Penal Code and Section 30 (a) of the Bihar Prohibition and Excise Act.



The allegation against the petitioner is to be engaged in manufacturing and selling of illicit wine. The police conducted a raid and one Vishwanath Sahni was apprehended. On search, from the motorcycle, total 25 litres country-made liquor was recovered. It is further alleged that 400-500 litres Mahua and Mitha was destroyed and at the spot utensils and apparatus used for manufacturing of wine was recovered.

Learned counsel appearing on behalf of the petitioners submitted that the petitioners were neither arrested at the spot nor any incriminating material was recovered from their conscious or constructive possession. The names of the petitioners have been disclosed by co-accused Vishwanath Sahni, who was apprehended by the police and save and except the disclosure made by the co-accused person, there is no material against the petitioners. It is next submitted that only because of the one past criminal antecedent, their names have been implicated in this case, though, the petitioners are in custody since 06.05.2022 and 02.04.2022 respectively.

On the other hand, learned APP for the State opposes the bail application.

Regard being had to the submissions made on behalf of the parties and taking into account the fact that the



petitioners were neither arrested at the spot nor any incriminating material has been recovered from their conscious or constructive possession and they are in custody since 06.05.2022 and 02.04.2022 respectively, though the investigation of the crime is already completed and the charge sheet has been submitted, let the petitioners, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise, II, Muzaffarpur in connection with Sahebganj P. S. Case No. 456 of 2019, 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.

- (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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