

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39540 of 2022

Arising Out of PS. Case No.-254 Year-2022 Thana- BARH District- Patna

-
1. Suraj Kumar Son of Birju Rai @ Birj Kishore Prasad Resident of Dalsimanchak, P.S.- Barh, District - Patna.
 2. Sunny Kumar Son of Birju Rai @ Birj Kishore Prasad Resident of Dalsimanchak, P.S.- Barh, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 23-11-2022 At the outset, it is submitted by learned counsel for the petitioner that in the light of the liberty given to the petitioners on last date supplementary affidavit has been filed. Let the supplementary affidavit filed on behalf of the petitioners be kept on record.

The learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Heard learned counsel for the petitioners and the learned APP for the State.

Petitioners seek regular bail in connection with Barh P.S. Case No. 254 of 2022 registered for the offences punishable



under Sections 25(1-b)a, 26 and 35 of the Arms Act.

Allegedly, from the possession of petitioner No. 1 one loaded country-made pistol and seven live cartridges were recovered and from the possession of petitioner No. 2 one loaded country-made pistol and eight live cartridges were recovered.

The main submissions advanced by the learned counsel Mr. Manoj Kumar Pandey for the petitioners are that the recovery of the alleged fire-arms from the possession of both the petitioners who are brothers is completely false and the same was manufactured by the police with an ulterior motive, in fact the mother of petitioners had filed a Cr.W.J.C. No. 2095 of 2018 with an allegation of false implication of the petitioners and their entire family members in a criminal case filed by the officials of the Barh police station including Senior Police Officials and in that writ petition Superintendent of Police (Rural), Patna, Deputy Superintendent of Police, Barh District Patna, Officer-in-Charge, Barh Police Station, Patna, Inspector General of Police, Bihar, Patna and Deputy Inspector General of Police, Bihar, Patna have been made party and the petitioners took plea that there is a CCTV camera installed at the house of the petitioners and regarding the allegation of recovery of liquor



an enquiry can be made with the help of the CCTV camera footage in respect of the offences lodged under Excise Act and in that writ petition on behalf of the mother of the petitioners the footage of the CCTV camera have also been filed for perusal of the Court and after the filing of the said writ petition, the instant case was filed by the officials of the Barh Police Station. Further submission is that while making the search and seizure of the alleged fire-arms, the provisions of Section 100 and 101 of Cr.P.C. were not complied with by the police officials and on the seizure list there is no signature of any independent person which shows that the recovery of the fire-arms was not made before the independent person and both the petitioners have been languishing in jail since 04.05.2022.

Learned APP Mr. Rabindra Kumar appearing for the State has opposed the bail prayer.

In view of above submissions and mainly considering the above-mentioned defence of the petitioners and also the fact that the recovery of the fire-arms was made before the police personnel who have been made witnesses of the alleged search and seizure which shows that the most important witnesses who are to be examined in the trial of the petitioners are official witnesses and also taking into account the petitioners' custody



period and stage of their case, in the opinion of this Court a lenient approach can be taken in respect of the petitioners’ prayer, let the petitioners be released on bail on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the concerned Court in connection with Barh P.S. Case No. 254 of 2022.

(Shailendra Singh, J.)

sangam/-

U		T	
---	--	---	--

