

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40841 of 2022

Arising Out of PS. Case No.-71 Year-2022 Thana- BARURAJ District- Muzaffarpur

1. Abhishek Mishra Son of Sunil Mishra Resident of village- Mahmada, P.S- Baruraj, District- Muzaffarpur
2. Vinod Sah Son of Munilal Sah Resident of village- Mahmada, P.S- Baruraj, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vijay Kumar @ Vijay Kr. Singh
For the Opposite Party/s : Mr.Suresh Prasad Singh

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 23-09-2022 Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Vijay Kumar, learned counsel for the petitioners and learned APP for the State, through video conferencing.

The petitioners seeks regular bail, who are in custody in connection with Baruraj P.S. Case No. 71 of 2022, for the offences punishable under Section 30(a) of the Bihar Prohibition of Excise Amendment Act, 2018.

It is alleged that 36.00 liters country made liquor was recovered near the pond and Bamboo orchard of Sridhar Swami.



It is submitted by the learned counsel appearing on behalf of the petitioners that petitioners were neither apprehended at the spot nor any incriminating material has been recovered from their persons and possession and save and except the disclosure of the name of the petitioners made by the *Chokidar* of the village, there is no other material against the petitioners. He further submitted that petitioners having fair antecedent, are in custody since 11.05.2022, though the investigation of the crime is already complete and the charge-sheet has been submitted, however, there is no likelihood of commencement of the trial in near future. He also submitted that there is no compliance of Section 81 and 82 of the Bihar Prohibition and Excise Act, 2016.

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

Regard being had to the submissions made on behalf of the parties and considering the fact that the alleged recovery was made from an open place, which is accessible to all and so far as the petitioners are concerned, having fair antecedent, are in custody since 11.05.2022, let the petitioners, named above, 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 I/C Exclusive Special Judge, Excise Court No.-II, Muzaffarpur, in connection with Baruraj P.S. Case No. 71 of 2022, 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.

(Harish Kumar, J)

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