

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42044 of 2022

Arising Out of PS. Case No.-521 Year-2021 Thana- GOPALPUR District- Bhagalpur

1. Mallori Yadav @ Malori Yadav @ Manohar Yadav @ Manohar, S/o- Kokchi Yadav @ Vishambhar Yadav, Resident of village - Tintanga Karari, P.S.- Gopalpur, District - Bhagalpur.
2. Tinku Yadav, S/o- Jaychu Yadav, Resident of village - Tintanga Karari, P.S.- Gopalpur, District - Bhagalpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pankaj Kumar, Advocate
For the Opposite Party/s : Mr. Ram Sumiran Rai, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 09-09-2022 Heard learned counsel for the petitioners and
learned APP for the State through video conferencing.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioners seeks bail in connection with Gopalpur P.S. Case No. 521 of 2021 registered for the alleged offences under Sections 413 and 414 of the Indian Penal Code, Section 30(a) of the Bihar Prohibition and Excise Act, 2016 and Section 25 (1-b)a, 26 and 35 of the Arms Act.

As per prosecution case, police received secret



information about petitioners unloading illicit liquor from their boat. The place was raided and total 50 litres of country made *chulai* liquor was recovered from the motorcycle and the boat. A loaded country made pistol along with one live cartridge was also recovered apart from a Bandolier containing 10 cartridges were seized from the boat. Petitioners are stated to be escaped from the spot when the raid was being conducted.

Learned counsel for the petitioners submits that the petitioners have been falsely implicated in this case and they are not the owners of either the motorcycle or the boat and they have nothing to do with the illicit liquor as seized. The petitioners have not been apprehended from the spot and nothing incriminating has been recovered from their conscious possession. The petitioners are having criminal antecedent and for this reason, they have been made accused in this case as well. The petitioners are in custody since 29.05.2022 and charge-sheet has been submitted.

Learned APP opposes the prayer for bail of the petitioners submitting that the petitioners are habitual offenders.

Having regard to the submissions made on behalf of the parties and considering the fact that petitioners were not apprehended from the spot and no recovery has been shown



from their conscious possession and further considering the submission of charge-sheet and period of their custody, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Excise Judge-I, Bhagalpur in connection with Gopalpur P.S. Case No. 521 of 2021, subject to the condition mentioned in Section 437(3) of the Cr.P.C. and other the following conditions:

- (i) The bail bond of the petitioners will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be a close relative of the petitioners.
- (iii) The petitioners will remain present on each and every date fixed by the court below.
- (iv) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioners will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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