

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41029 of 2022

Arising Out of PS. Case No.-59 Year-2022 Thana- DORIGANJ District- Saran

1. Birbal Rai Son of Sipahi Rai Resident of village - East Balua (Kansdiyar), P.S.- Doriganj, District - Saran at Chapra
2. Shailesh Rai @ Shailesh Son of Bhagirath Ray Resident of village - East Balua (Kansdiyar), P.S.- Doriganj, District - Saran at Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dewendra Narayan Singh, Advocate.

For the Opposite Party/s : Mr. Suresh Prasad Singh, APP.

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. Dewendra Narayan Singh, learned counsel for the petitioners and learned APP for the State, through video conferencing.

The petitioners seek regular bail, who are in custody in connection with Doriganj P.S. Case No. 59 of 2022, for the offences punishable under Sections 30(a), 32 (2), (3) and 38 of the Bihar Prohibition of Excise Act.

As per the prosecution case, total 39 bags of Jaggery and 200 liters of country wine was recovered near a *Peepal*



Tree, situated beside Panchayat Bhawan. It is also alleged that a Bolero Pickup Van was also recovered and the petitioners were apprehended at the spot.

It is submitted by the learned counsel appearing on behalf of the petitioners that nothing has been recovered from the possession of the petitioners nor they have been alleged to be seen either getting carried the recovered wine or Jaggery or to be found fleeing away by coming out from the vehicle, from which the recovery of wine and jaggery has been made. It is also submitted that the petitioners having fair antecedent, are in custody since 11.02.2022, though the investigation of the crime is already complete and the charge-sheet has already been submitted and there is no likelihood of commencement of the trial in near future. He last submitted that there are other infirmities in the seizure list, apart from non-compliance of Section 100 of the Cr.P.C.

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 investigation of the crime is already complete and the charge-sheet has already been submitted and there is no likelihood of commencement of



the trial in near future, the petitioners having fair antecedent, 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 Additional District & Sessions Judge-2nd-cum-1st Exclusive Special Judge, Excise, Saran at Chapara, in connection with Doriganj P.S. Case No. 59 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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