

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51554 of 2021

Arising Out of PS. Case No.-199 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Gaya

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1. NAVLESH KUMAR S/o SURESH SINGH R/o VILLAGE-BAJITPUR,
P.S.-PIPRA, DISTRICT-PATNA.
 2. BIMAL KUMAR S/o VISHNU YADAV @ VISHWANATH SINGH @
VISHWANATH YADAV R/o VILLAGE-BASI YAMA (BASIWAWA,
KALYANPUR), P.S.-PIPRA, DISTRICT-PATNA.

... .. Petitioners.

Versus

THE STATE OF BIHAR

... .. Opposite Party.

Appearance :

For the Petitioners	:	Mr. Pushpendra Kumar Singh, Advocate.
For the State	:	Mr. Md. Mhshtaque Alam, A.P.P.

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

3 10-02-2022 The applicants/accused in Excise P.S. Case No.199 of 2021 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, by this application are seeking their release on bail during the pendency of the trial.

The applicants are given out of turn hearing on account of illness of the wife of the applicant no.2.

The learned counsel appearing for the applicants argued that the prosecution is suffering from inherent lacuna and therefore actually the same deserves to be quashed and set aside. He submits that when a procedure is prescribed by the statute then the authorities are expected to act as per the said procedure



or they should not act at all. In the case in hand, according to the learned counsel for the applicants, Bihar Prohibition and Excise Act, 2016, requires filing of the report as envisaged by Section 91 thereof but the Excise Department has not filed any such report rendering the detention of the applicants illegal for which they are entitled for compensation.

The learned A.P.P. opposed the application by contending that 90 liters of Indian Made Foreign Liquor came to be seized from the car in which the applicants were travelling.

I have considered the submissions so advanced and also perused the materials placed before me.

The prosecuting agency i.e. the Excise Department of the State has satisfied itself by merely filing an application for taking the applicants in judicial custody as well as by submitting the list of seized articles to the concerned court. Prima facie, I am not finding the report as envisaged by Section 91 of the Bihar Prohibition and Excise Act, 2016 in the instant case. However, in the bail proceeding it is not advisable to comment further on the laches and lapses on the part of the prosecuting agency, as alleged by the learned counsel for the applicants. Suffice to state that as the investigation of the subject crime is over, further pretrial detention of the applicants is not warranted.



Therefore, the following orders:

- (i). The application is allowed.
- (ii). The applicants/accused in Excise P.S. Case No.199 of 2021 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, be released on bail on executing P.R. bond of Rs.10000/-(Rupees Ten Thousand) on furnishing surety of the like amount by each of them to the satisfaction of the trial court with the following conditions:

- (I). The applicants should not extend any threat, promise or inducement to the persons acquainted with the facts of the accusation against them so as to dissuade them from disclosing such facts to the Court or to any police officer.
- (II). The applicants should cooperate the trial in expeditious disposal of the trial against them.
- (III). The applicants should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.
- (IV). The applicants should not repeat commission of similar offence in future and if they are found to be involved in commission of similar offence, the



State is at liberty to apply for cancellation of bail
granted to the applicants in the instant case.

The applicants to remove all office objections forthwith
and the Registry to issue the certified copy of this order only
after removal of office objections by the applicants/ accused.

(A. M. Badar, J)

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