

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50677 of 2021

Arising Out of PS. Case No.-395 Year-2021 Thana- MAHUA District- Vaishali

1. MAGHNATH RAI Son of Harendra Rai Resident of Village - Piroe, P.S.- Goraul, District - Vaishali.
2. Pramod Rai Son of Late Sokhi Rai Resident of Village - Piroe, P.S.- Goraul, District - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

7 10-08-2022 Learned counsel for the petitioners is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Manoj Kumar, learned counsel for the petitioners as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioners, above named, who have been made accused and put behind the bar in connection with Mahua P. S. Case No. 395 of 2021 registered for the offences punishable under Sections 272, 273, 420, 467, 468 and 414 of the Indian Penal Code and Section 30 (a), 32(ii), 38(ii) and 48 (i) of the Bihar Prohibition and Excise



Act.

Earlier vide order dated 12.05.2022, the petitioners were granted provisional bail subject to the condition that the petitioners will file affidavit giving details of owner of the vehicle as to how they are connected with the trade of illicit liquor and the name of the persons with whom they were working and from where the illicit liquor was to be transported. However, it was made clear that if such affidavit is not filed on behalf of the petitioners, the said order shall automatically loss its force.

Learned counsel for the petitioners submitted that no such affidavit has been filed resulting into losing the force of earlier order of granting provisional bail.

As per the prosecution case, it is alleged that the Police, on a secret information, intercepted three vehicles and on search, from Tata Magic vehicle, wherein both the petitioners were alleged to have been found sitting, 243 litres Indian made foreign liquor was recovered. It is further alleged that from the Scorpio vehicle 138.240 litres and from motorcycle, 18 litres Indian made foreign liquor were recovered.

Learned counsel appearing on behalf of the petitioners submitted that the petitioner no. 1 happens to be



owner of the Tata Magic vehicle whereas the petitioner no. 2 is the driver of the said vehicle. It is further submitted that the said vehicle was plying for the purposes of transportation of goods and they were not even aware as to what was loaded by the consigner of the goods. It is next submitted that there is no compliance of Section 100 Cr.P.C. apart from other irregularities. It is also submitted that these petitioners having no criminal antecedent, are in custody since 01.07.2021.

On the other hand, learned APP for the State opposes the bail application and submits that the petitioners were apprehended at the spot with the illicit wine.

Having considered the submissions made on behalf of the parties and taking into account the fact that the petitioners being owner and the driver of the vehicles in question, which runs on rent/hire, were not even aware as to what was loaded by the consigner and moreover, they being persons of fair antecedent, are in custody since 01.07.2021, apart from the fact that the investigation of the crime is already completed and the charge sheet has been submitted, let the petitioners, above named, 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



Sessions Judge-II-cum-Excise Court, Vaishali at Hajipur in connection with Mahua P. S. Case No. 395 of 2021, subject to the condition that one of the bailors will be the close relative 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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