

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42194 of 2022

Arising Out of PS. Case No.-63 Year-2022 Thana- HASPURA District- Aurangabad

1. UMESH YADAV @ DHURI YADAV Son of Late hari yadav Resident of Village- Girdhari mathiya, P.s.- Haspura, Distt.- Aurangabad, Bihar
2. Manoj Yadav Son of Saheb Dyal Singh @ Saheb Dayal Yadav Resident of Village- Girdhari mathiya, P.s.- Haspura, Distt.- Aurangabad, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dhaneshwar Prasad Gupta, Advocate.
For the Opposite Party/s : Mr. Arun Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 30-09-2022 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. Dhaneshwar Prasad Gupta, learned counsel for the petitioners as well as learned Additional Public Prosecutor for the State through video conference.

The application for grant of bail to the petitioners, above named, who have been made accused and put behind the bar in connection with Haspura P. S. Case No. 63 of 2022 registered for the offences punishable under Section 30 (c) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

The allegation against the petitioners is to be



engaged in trade and manufacturing of illicit liquor. The police conducted a raid and from the field of the petitioners and other various incriminating materials, including 40 litres puffed Mahua Flower and 10 Kg. Mahua flower and some apparatus used in manufacturing of the liquor were seized. It is also alleged that from the field of Umesh Yadav @ Dhuri Yadav 300 litres Mahua Jawa and 05 Kg. Mahua flower were also recovered.

Learned counsel appearing on behalf of the petitioners submitted that the petitioners were neither apprehended at the spot nor any incriminating material has been recovered from persons or possession of the petitioners. It is also submitted that the alleged recovery has been made from open field, which is accessible to all, apart from the fact that there is no compliance of Section 100 of the Cr.P.C. as also in defiance of Sections 81 and 82 of the Bihar Prohibition and Excise Act. It is further submitted that only because of one past criminal antecedent, the name of the petitioners have been implicated in this case and moreover, the petitioners have been remanded in the present case on 14.06.2022 and since then they are in custody.

On the other hand, learned APP for the State



opposes the bail application.

Regard being had to the submissions made on behalf of the parties and taking into account the fact that the petitioners were neither apprehended at the spot nor any incriminating material has been recovered from their persons or possession and moreover, the alleged recovery has been made from open place, which is accessible to all and after conclusion of the investigation, charge-sheet has been submitted, let the petitioners, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge- -cum-Special Judge, Excise-II, Aurangabad, Bihar in connection with Haspura P. S. Case No. 63 of 2022, 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.
- (v) The Court below shall verify the criminal antecedent of the petitioners and in case at any stage, it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancelling of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Harish Kumar, J)

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