

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46367 of 2022

Arising Out of PS. Case No.-58 Year-2022 Thana- ARWAL District- Jehanabad

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1. GAUTAM KUMAR Son of Shiv Kumar Yadav Resident of Village - Madan Singh ke Tola, P.S.- Arwal , Distt.- Arwal.
 2. TARA BHUSHAN SHARMA @ DARA SINGH Son of Late Sudama Singh Resident of Village - Aakopur, P.s.- Rampur Choram, Distt.- Arwal.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Gajendra Kumar Singh

For the Opposite Party/s : Mr.Abhay Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 16-09-2022 Let the defect(s), as pointed out by the office, be removed within a period of four weeks from today.

Heard learned counsel for the petitioners and learned A.P.P. for the State in virtual court proceeding.

The petitioners seek bail in connection with Arwal P.S. Case No. 58 of 2022 registered for the offences punishable under Sections 341, 323, 386, 506, 411, 34 of the IPC and Section 37(c) of the Bihar Prohibition and Excise Amendment Act, 2018.

As per prosecution case, petitioners and other came out of swift dezire car and among them petitioner no. 1 Gautam Kumar demanded challan of sand from the informant who was



sitting on a sand loaded vehicle in question and told that sand is overloaded and demanded Rs. 15,000/-. On this demand informant paid Rs. 3,000/-. It is further alleged that petitioners and other assaulted the informant. Anyhow informant saved himself and informed the police. After arrival of police, the petitioner no. 1 Gautam Kumar and co-accused Shrikant Sharma succeeded in fleeing away whereas petitioner no. 2 Tara Bhushan Sharma @ Dara Singh and co-accused Ajit Kumar arrested on the spot and subjected to breath analyzer test for its examination and after breath analyzer test it is found that they had consumed liquor.

Learned counsel for the petitioners submits that petitioners are in custody since 16.02.2022 and bear no criminal antecedent. He further submits that petitioners never demanded money from the informant and as a matter of fact, after some dispute informant concocted a false story and informed the police officers. Learned counsel further submits that as per impugned order, petitioner no. 2 has three criminal antecedents but in all the three cases, petitioner no. 2 granted acquittal and the said fact has been mentioned at para-10 of the bail petition. He further submits that petitioners are quite innocent and they have been falsely implicated in the case due to oblique reason.



Learned counsel specifically submits that charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. He further submits that co-accused Ajeet Kumar @ Ajeet Kumar Singh has already been granted bail by the Co-ordinate Bench of this Court vide Cr. Misc. No. 40324 of 2022 and the case of present petitioners stands more or less on similar footing.

The learned A.P.P. for the State opposes the prayer for bail of the petitioners.

Considering the facts and circumstances of the case, period of custody, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioners above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise-II, Jehanabad in connection with Arwal P.S. Case No. 58 of 2022, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn



the affidavit in bail application.

(ii) Petitioners will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(iv) If the petitioner no. 1 Gautam Kumar is found involved in similar nature of offences in future, the learned trial court shall be at liberty to cancel his bail bond.

(Alok Kumar Pandey, J)

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