

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47075 of 2022

Arising Out of PS. Case No.-332 Year-2022 Thana- KATEYA District- Gopalganj

1. Rakesh Kumar Dubey Son Of Late Nishikant Dubey R/V- Chatiya, P.S- Malahi, Dist- West Champaran
2. Uday Prakash Tiwari Son Of Shilanath Tiwari R/V- Vishnupur Kalyan, P.S- Sahebganj, Dist- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anant Kumar Mishra, Advocate

For the Opposite Party/s : Mr. M.K. Nirala, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 21-10-2022 Let the defects, if any, be removed within four weeks from today.

Heard Mr. Anant Kumar Mishra, learned counsel for the petitioners as well as learned Additional Public Prosecutor for the State through video conferencing.

Petitioners seek bail in a case registered in connection with Kateya P.S. Case No. 332 of 2022 for the offences punishable under Sections 30(a), of the Bihar Prohibition & Excise Amendment Act.

The police in course of vehicle checking , intercepted various vehicle including the Wagon-R car on which the petitioner is found sitting. It is further alleged that



Vikaram auto was also intercepted and on search total 144.920 liters Indian made foreign liquor was recovered.

Learned counsel appearing on behalf of the petitioners submits that petitioner no. 1 happens to be brother-in-law of petitioner no. 2 and both were returning from Banaras, in the meantime, in course of vehicle checking various vehicles were intercepted including the vehicle of the petitioner but the fact is that no recovery has been made from the Wagon-R car of the petitioners but only on suspicion their names have been implicated, though the entire recovery has been made from Vikram Tempo. He next submits that the Wagon-R vehicle belongs to petitioner no. 1 and petitioner no. 2 was seated in the said car however, they had no concern with the illicit liquor but only on account of one past criminal antecedent of identical nature, their names have been implicated in this case. He next submits that there is no compliance of section 100(4) of the Cr.P.C and moreover, investigation of the crime is already complete and the charge sheet has been submitted though the petitioner are in custody since 20.07.2022.

On the other hand, learned counsel for the State



opposed the bail application.

Regard being had to the submissions made on behalf of the parties and considering the fact that investigation of the crime is already complete and charge sheet has been submitted and there is no likelihood of commencement of trial in near future, apart from other infirmities in the seizure list, let the petitioners, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II cum Special Judge, Excise-I, Gopalganj in connection with Kateya P.S. Case No. 322 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 petitioner 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 his 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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