

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.58006 of 2021**

Arising Out of PS. Case No.-348 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.  
District- Muzaffarpur

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1. Deepak Kumar, son of Sudhir Kumar  
2. Ram Kumar Singh, so of late Chaturbhuj Singh  
Both resident of village- Chhapra Megh, P.S. Musahari, District Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Anjana, Advocate  
For the Opposite Party/s : Mr. Asha Kumari, APP

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

3      17-02-2022                      The applicants has claimed out of turn hearing on  
account of illness of mother of applicant no.1 Deepak Kumar.

Though the learned Additional Public Prosecutor submits that the Investigating Officer has seen mother of the applicant roaming in the market, the learned counsel for the applicant drew my attention to the prescription issued by the hospital of repute, i.e, Mahavir Cancer Institute and Research Centre, Patna showing that mother of applicant no. 1, Sangita Devi is suffering from cancer. Papers of medical treatment are annexed with the mentioning slip. Hence, out of turn hearing is given to the applicants.

The applicants are accused in Excise Case No. 348 of 2021 arising out of P.R. No. 47 of 2021 registered for the



offence punishable under Sections 30(a) of the Bihar Prohibition and Excise Act 2016, by this application are seeking their release on bail during pendency of the trial.

Heard both sides.

It is argued by the learned counsel for the applicants that the applicants are having clean antecedent. He further argued that provisions of Section 91 of the Bihar Prohibition and Excise Act, 2016 are not followed by the prosecuting agency and the report as envisaged by that Section is not filed before the competent court. He further argued that what is filed by the prosecuting agency against the applicant for initiating the criminal proceedings is an application for taking the applicants in judicial custody as well as the list of the articles seized from them. This according to the learned counsel for the applicants does not amount to compliance of Section 91 of the Bihar Prohibition and Excise Act, 2016.

As against this, the learned Additional Public Prosecutor opposed the application by contending that illicit liquor of 71.40 litres quantity came to be seized from three persons including the present applicants.

Indisputably, the applicants are not having any criminal antecedents. So-called investigation against the



applicants seems to be over at the time of their apprehension by the Excise Officials as no further report as required by Section 91 of the Bihar Prohibition and Excise Act, 2016 is pointed out to this Court. Hence I see no reason to refuse the bail to the applicants and therefore, the order :-

i. The application is allowed.

ii. The applicants/accused in Excise Case No. 348 of 2021 arising out of P.R. No. 47 of 2021 be released on bail on executing P.R. bond of Rs.10,000/- (Rupees Ten Thousand) each on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions: -

(I) The applicants/accused should not extend any threat, promise of 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/accused should cooperate the trial court in expeditious disposal of the trial against them.

(III) The applicants/accused 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.

Bhardwaj/-

**(A. M. Badar, J)**

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