

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48570 of 2022

Arising Out of PS. Case No.-339 Year-2022 Thana- BODHGAYA District- Gaya

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1. Uttam Kumar, Son of Binay Kumar, Resident of Village- Saidabad, P.S.- Kako, Distt.- Jehanabad.
 2. Arvind Kumar, Son of Brijnandan Singh, Resident of Village- Gewal Bigha, P.S.- Civil Line, Distt.- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vipin Kumar Singh, Advocate
For the Opposite Party/s : Mr. M. K. Nirala, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 29-09-2022 Today this case has been listed on priority basis, on the motion slip filed by the learned counsel for the petitioners praying therein that petitioner no.1 is a student and his examination is going to be held on 30.09.2022.

At the outset, learned counsel for the petitioners submits that on account of inadvertence para.8 of the bail petition has wrongly been typed and he submits that he is not pressing para.8 of the bail application.

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



Heard Mr. Vipin Kumar Singh, learned counsel for the petitioners and learned APP for the State.

The petitioners seek regular bail, who are in custody in connection with Bodh Gaya P.S. Case No. 339 of 2022 registered for the offences punishable under Sections 467, 468, 470, 120(B) of the Indian Penal Code and Section 30 (a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

As per prosecution case, it is alleged that the police on a confidential information that some persons are engaged in the trade of illicit wine and have concealed huge quantity of wine, raided the place of occurrence and apprehended four persons, namely, Sudip Kumar, Niraj Kumar, Md. Aamir and Anand Kumar and on search 4077 litres of illicit wine was recovered. It is also alleged that some apparatus used for manufacturing medicine were also recovered. The apprehended co-accused, namely, Sudip Kumar, also disclosed the name of other co-accused persons, including the petitioners.

Learned counsel appearing on behalf of the petitioners submits that from the F.I.R., it would be evident that the petitioners were neither apprehended at the spot nor any incriminating material has been recovered from their possession. He further submits that the petitioners have neither any concern



with the co-accused persons nor with the incriminating articles, which are said to have been recovered from the place of occurrence. He next submits that petitioner no.1 is a resident of Jehanabad and he is student of Polytechnic at Ranchi and both the petitioners are languishing in jail since 15.06.2022. So far petitioner no.1 is concerned, he is having fair antecedent whereas petitioner no.2 is named in one another case. He lastly submits that now the investigation of the crime is already completed and charge-sheet has been submitted and they undertake to cooperate with the trial.

On the other hand, learned APP for the State opposes the bail application and submits that a huge quantity of illicit Indian made foreign liquor and articles as well as apparatus used for preparing medicines was recovered and from the materials available on record, the complicity of the petitioners in the crime cannot be ruled out.

Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioners were neither apprehended at the spot nor any incriminating material has been recovered and there is no material, which suggests the complicity of the petitioners in the present crime and they are in custody since 15.06.2022, let the petitioners, named above, 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 Exclusive Special Excise Court No.1, Gaya in connection with Bodh Gaya P.S. Case No. 339 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 petitioners will cooperate in conclusion of the trial.

(ii) They will remain physically 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 immediate step for cancelling the bail bond of the petitioners. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for



this purpose or in the name of verification.

(Harish Kumar, J)

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