

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59495 of 2022

Arising Out of PS. Case No.-450 Year-2022 Thana- SIWAN MUFFASIL District- Siwan

1. Manohar Sharma S/O Jai Prakash Sharma, Resident of Village- Jiyan P.S.- Siwan Muffasil, District- Siwan.
2. Shubham Rai S/O Satendra Rai, Resident of Village- Belawan, P.S.- Darauli, District- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bijay Prakash Singh, Advocate

For the Opposite Party/s : Mr. Ramesh Chandra, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 25-11-2022 Heard learned counsel for the petitioners and
learned A.P.P. for the State through virtual court proceeding.

Let the defect (s), if any, as pointed out by the
office, be removed within a period of four weeks.

In the present case, the petitioners seek bail in
connection with Siwan Mufassil P.S. Case No. 450 of 2022
registered for the alleged offences under Sections 30(a), 41(1)
and 45 of the Bihar Prohibition and Excise Act, 2018 and
Section 27 of the Arms Act.

As per prosecution case, police received secret
information about transportation of illicit liquor in huge
quantity by a white colored Scorpio vehicle and three persons

riding a motorcycle were doing the work of liner ahead of this Scorpio vehicle. The driver of the Scorpio vehicle fled away leaving behind his vehicle whereas the petitioner Shubham Rai who was driving the motorcycle fell down and was apprehended and two pillion riders on the motorcycle fled away opening fire on police party. Recovery of 315 liters of country made foreign liquor was made from the Scorpio vehicle. The petitioner Shubham Rai further disclosed the name of the petitioner Manohar Sharma as the person who was to receive the consignment of illicit liquor along with other co-accused persons.

Learned counsel for the petitioners submits that petitioners are innocent and have been falsely implicated in this case. Nothing incriminating has been recovered from the conscious possession of the petitioners. The petitioner Manohar Sharma was not apprehended from the spot and the petitioner Shubham Rai was also not apprehended from the place of occurrence. There is no independent witness to support the seizure list and the witnesses are police official and thus, there is violation of Section 100 of Cr.P.C. Charge sheet has been submitted in this case and the petitioners are in custody since 08.08.2022. The petitioners have got clean

antecedent.

Learned A.P.P. for the State opposes the prayer for bail of the petitioners.

Having regard to the submission made on behalf of the parties and considering the fact that no recovery has been shown from the petitioners and also considering the submission of charge sheet along with period of custody of the petitioners and their clean antecedent, the petitioners above named are directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No. 2, Siwan in connection with Siwan Mufassil P.S. Case No. 450 of 2022, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close relative of the petitioners.
- (ii) The petitioners will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of

the terms of the bail, the bail bond of
the petitioners will be liable to be
cancelled by the court concerned.

(Arun Kumar Jha, J)

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