

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70098 of 2021

Arising Out of PS. Case No.-108 Year-2021 Thana- HATHAURI District- Samastipur

1. Rakesh Kumar Gupta @ Panchu Sah Son of Late Ram Kishun Sah Resident of Village - Raauli, P.S.- Hathauri, Dist.- Samastipur.
2. Rohit Kumar Son of Rakesh Kumar Gupta @ Panchu Sah Resident of Village - Raauli, P.S.- Hathauri, Dist.- Samastipur.
3. Gautam Kumar Son of Rakesh Kumar Gupta @ Panchu Sah Resident of Village - Raauli, P.S.- Hathauri, Dist.- Samastipur.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Bijay Bhushan Prasad, Advocate
For the Opposite Party/s : Mrs.Sucheta Yadav, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 24-05-2022 Heard Mr. Bijay Bhushan Prasad, learned counsel for the petitioners and Mrs. Sucheta Yadav, learned APP for the State.

The petitioners are in judicial custody in connection with Hathauri (Shivaji Nagar) P.S. Case No. 108 of 2021, Excise Case No. 725 of 2021 registered under section 30(a) of the Bihar Prohibition and Excise Act, 2016.

As per the allegation, the police upon secret information raided an ice-cream factory. The three persons who were sitting tried to escape but they were apprehended and upon search, 132.300 litres of foreign liquor was recovered/seized and



they were taken into custody.

The learned counsel for the petitioner submits that the police falsely implicated the father who is the petitioner no.1 and his two sons, petitioner nos. 2 and 3. He submits that although the police has made seizure list which is part of the FIR, the signature of none of the petitioners is present on it which clearly shows their false implication. He further submits that none of the petitioners has criminal antecedent and they are in jail since 31.7.2021 (as stated in para-5 of the bail application).

Taking into account the aforesaid fact that signature of the petitioners are missing in the seizure list, they have no criminal antecedents and are in jail since 31.7.2021; this Court is inclined to grant them the privilege of bail subject to the fact that if any of them do have criminal antecedent, this bail order shall become infructuous.

Let the petitioners be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned Additional Sessions Judge-II cum Special Judge, Excise, Samastipur, in connection with Hathauri (Shivaji Nagar) P.S. Case No. 108 of 2021 subject to the following conditions:-



(i) one of the bailors should be the family member of the petitioners, who shall provide official document to show their bona fide;

(ii) the petitioners shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reasons will entail their cancellation of bail by the Trial Court itself;

(iii) they shall appear before the concerned police station every fortnight for next six months to mark their presence;

(iv) they shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of their bail bonds;

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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