

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.766 of 2022

Arising Out of PS. Case No.-439 Year-2021 Thana- DARBHANGA SADAR District-
Darbhanga

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1. FIROJ AHMAD S/o Md. Mosim Resident of Karomi, P.S.- Hanuman Ganj,
Distt.- Sultan Pur (U.P.)
 2. Rakib Ahmad S/o Late Akil Ahmad Resident of Kajoopur, P.S.- Hanuman
Ganj, Distt.- Sultan Pur (U.P.)

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sushil Kumar

For the Opposite Party/s : Mr.Manoj Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 06-09-2022 Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

Heard learned counsel for the petitioners and
learned A.P.P. for the State.

The petitioners seek bail in connection with
Darbhanga P.S. Case No. 439 of 2021 registered for the offences
punishable under Sections 30(a) and 41(i) of the Bihar
Prohibition and Excise Amendment Act.

As per prosecution case, there is alleged recovery
of 4330.44 litres foreign liquor from the truck in question. It is
further alleged that petitioner no. 1 is driver and petitioner no. 2
is co-driver of the said vehicle and both are apprehended on



spot.

Learned counsel for the petitioners submits that petitioner is in custody since 15.10.2021. Petitioners bear no criminal antecedent. Charge sheet has already been submitted in the case and there is no likelihood of tampering with the prosecution evidence. Learned counsel further submits that the petitioner no. 1 being the driver, petitioner no. 2 being co-driver and they have no knowledge about the liquor kept in truck in question. Nothing has been recovered from the conscious possession of the petitioners. There is no compliance of Section 100 of the Cr.P.C.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioners.

Considering the facts and circumstances of the case as well as period of custody, charge-sheet has already been submitted and there is no likelihood of tampering with the prosecution evidence, keeping in view clean antecedent of the petitioners and also taking into consideration the material available on record, let the petitioners above named be released on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned District and Sessions Judge – II-cum-



Special Judge Excise, Gopalganj in connection with Darbhanga
P.S. Case No. 439 of 2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioners will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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