

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1443 of 2022

Arising Out of PS. Case No.-78 Year-2021 Thana- KALER District- Jehanabad

1. Rajiv Kumar, Son of Shyam Babu @ Shyam Babu Sharma, Resident of Village- Dhakpura, Mirapur, P.S.- Mujariya Chowki, District- Budaun (Uttar Pradesh).
2. Gaurav Pathak, Son of Ravi Ranjan Pathak, Resident of Village- Shirawali, P.S.- Soro, District- Kashganj (Uttar Pradesh).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Anand, Advocate
For the Opposite Party/s : Mr. Sanjay Kumar, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 21-06-2022 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. Vijay Anand, learned counsel for the petitioners and learned APP for the State.

The petitioners seek regular bail, who are in custody in connection with Excise Case No. 1117 of 2021, arising out of Kaler P.S. Case No. 78 of 2021, for the offences punishable under Sections 30(a)/36/41 of the Bihar Prohibition and Excise Act, 2018.

As per prosecution case, it is alleged that the police, on a secret information given by the higher authority,



apprehended a truck, bearing registration no. UP26T 1657, near Rajdhani Hotel situated at NH 139. It is further alleged that on search being made, total 2214 litres of foreign liquor was recovered and accordingly seizure-list was prepared.

It is submitted by the learned counsel appearing on behalf of the petitioners that the petitioner no.1 happens to be the driver and petitioner no.2 is the cleaner of the vehicle, in question. It is further submitted that the petitioners being the driver and cleaner of the vehicle, in question, are in fact not aware as to what was loaded by the consigner of the truck. Learned counsel for the petitioners has drawn the attention of this Court towards the seizure-list wherein the place of seizure has been said to be the premises of Caler police station, but the F.I.R. discloses that the truck was apprehended near Rajdhani Hotel at NH 139. It is also submitted that the petitioners have got clean antecedents and moreover the investigation of the crime has already been concluded and the charge-sheet has been submitted. The petitioners are in custody since 30.11.2021.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that a huge consignment of illicit foreign liquor has been recovered from the truck of which the petitioners were the driver and the



cleaner.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that the petitioners are said to be the driver and the cleaner of the truck and further suspicion has been raised with regard to the manner of search and seizure, apart from the fact that the petitioners having clean antecedents and are in custody since 30.11.2021 and moreover the investigation has already been concluded and the charge-sheet has been submitted in this case and they are giving undertaking that they will co-operate in the trial, 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 Additional Sessions Judge-II-cum-Special Judge, Excise Act, Jehanabad in connection with Excise Case No. 1117 of 2021, arising out of Kaler P.S. Case No. 78 of 2021 subject to the condition that one of the bailors will be the local resident with further conditions which are as follows:-

(i) The petitioners will cooperate in conclusion of the trial.

(ii) They will remain 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 antecedents of the petitioners and in case, at any stage, it is found that the petitioners have concealed their criminal antecedents, the court below shall take 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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