

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12487 of 2023

Arising Out of PS. Case No.-387 Year-2022 Thana- KOTWA District- East Champaran

1. SANTOSH SAH, aged about 25 years (M), Son of Wakil Sah, R/v- Jamuniya Jasauli, P.S.- Kotwa, District- East Champaran.
2. DADAN DAS, aged about 28 years (M), Son of Banti Das, R/v- Jamuniya Jasauli, P.S.- Kotwa, District- East Champaran.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Abhishek Kumar, Advocate

For the Opposite Party : Mr. Sanjay Kumar Sharma, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 29-04-2023 Heard learned counsel for the petitioners and

learned A.P.P. for the State.

The petitioners are apprehending their arrest in connection with Kotwa (Bhopatpur) P.S. Case No. 387 of 2022 for the offence registered under Sections 30(a), 32 and 41(i) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

The prosecution story, in brief, is that total 59.46 liters wine is said to have been recovered by the side of the road in front of house of Laxman Mahto.

It has been submitted by learned counsel for the petitioners that the petitioners have got no criminal



antecedent. They have falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against the petitioners. It is alleged that total 59.46 liters wine is recovered by the side of the road in front of house of Laxman Mahto. The petitioners are named in the F.I.R. The name of the petitioners has transpired in the present case on the basis of disclosure made by the local Choukidar. Except for this, there is no other substantive evidence to suggest the implication of the petitioners in this case. Nothing incriminating has been recovered from the conscious possession of the petitioners. The petitioners had no knowledge regarding the alleged incident. There is no compliance of Section 100 Cr. P.C. Learned counsel for the petitioners has placed reliance upon the order dated 13.04.2022 passed by the Hon'ble Supreme Court in *Criminal Appeal No. 626 of 2022, arising out of SLP (Crl.) No. 3005 of 2022 (Sweta Kumari-Versus-The State of Bihar)*.

On behalf of the State, it is submitted that the petitioners are named in the F.I.R/ Complaint Case.

Considering the aforesaid facts and circumstances,



the petitioners, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand Only) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Excise Court-1, Motihari, East Champaran, in connection with Kotwa (Bhopatpur) P.S. Case No. 387 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sudhir Singh, J)

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