

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23473 of 2023

Arising Out of PS. Case No.-543 Year-2022 Thana- ARWAL District- Jehanabad

1. KAMLESH KUMAR Son of Umesh Roy R/V- Benibad, PS- Benibad, Dist- Muzafarpur.
2. Pankaj Kumar son of Ashok Ram R/V- Mohamadpur Devpar, PS- Pusa Dist- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms.Anu Priyadarshni

For the Opposite Party/s : Mr.Md. Shakir Ahmad

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 12-06-2023 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners seek bail in connection with Arwal
P.S. Case No. 543/2022 registered for the offences punishable
under Sections 30(a)/41 of the Bihar Prohibition and Excise Act.

As per prosecution case, there is alleged recovery of
2093.4 liters foreign liquor from Tata 709 truck in question.
Petitioner no.1 is driver and petitioner no.2 co-driver (Khalashi)
of the said and they apprehended on the spot.

Learned counsel for the petitioners submits that
petitioners are innocent and have falsely been implicated in this
case. Nothing has been recovered from the conscious possession



of the petitioners. The petitioners are languishing in custody since 11.11.2022. Learned counsel for the petitioners has filed supplementary affidavit and submits that petitioner no.1 is driver and petitioner no.2 is co-driver (Khalashi) of the said truck. The petitioner no.1 bear no criminal antecedent and petitioner no.2 bear one criminal antecedent of similar nature. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence.

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

Considering the facts and circumstances of the case, period of custody, charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence and argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner no.1 Kamlesh Kumar who bears no criminal antecedent be released on bail and petitioner no.2 Pankaj Kumar who bears one criminal antecedent of similar nature be released on bail **after framing of charge** on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Special Excise Court-11, Jehanabad in connection with Arwal P.S. Case No.



543/2022, 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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