

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30670 of 2023

Arising Out of PS. Case No.-41 Year-2023 Thana- KURSAILA District- Katihar

1. Birendra KUMar Saha @ Birendra Kumar Sah son of Late Naresh Kumar Sah R/o- Naya Tola, Po Ps- Navgachhiya, Dist- Bhagalpur
2. Raman KUMar @ Raman Kumar Poddar son of Bablu Poddar Village PO Ps- Bhawanipur Navgachhiya, Dist- Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Kumar

For the Opposite Party/s : Mr. Damodar Prasad Tiwary

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 09-08-2023 Heard learned counsel appearing on behalf of the
petitioners and learned counsel appearing on behalf of the State.

2. The petitioners seek bail in connection with Kursela P.S. Case No. 41 of 2023 registered for the offence under Sections 30(a) of the Bihar Prohibition and Excise Act, 2018.

3. The accused/petitioners are named in the F.I.R. and are in custody since 10.03.2023.

4. The allegation against the petitioners is to be engaged in illegal trading/manufacturing of illicit liquor, where, there is recovery of 1000 bottles of cough syrup each of 100 ml, where one of its composition is “codeine”, which is a



scheduled prohibited drug, as per N.D.P.S. Act, 1985.

5. Learned counsel appearing on behalf of the petitioners submitted that nothing surfaced during the course of investigation which may suggest that petitioners were aware about carrying consignment of illicit cough syrup and, as such, it can be said safely that alleged cough syrup not appears to be recovered from their conscious physical possession. It is submitted that petitioner no. 1 is the driver whereas petitioner no. 2 is the helper. It is submitted that seizure list appears doubtful being not supported by independent witnesses, rather by police personnels. While concluding the argument it is submitted that petitioners is men of clean antecedent and moreover, investigation of this case is completed for which charge-sheet has been submitted and as such, there is no chance of tampering with the evidence.

6. Learned APP opposes the prayer of bail.

7. Considering the facts and circumstances as mentioned above, as recovery of alleged illicit cough syrup not appears to be made from the conscious physical possession of these petitioners, where seizure list is not supported by independent witnesses coupled with the fact that charge-sheet has already submitted, where petitioners are in custody since



10.03.2023, accordingly, both the petitioners, above named, are directed to be released on bail in connection with Kursela P.S. Case No. 41 of 2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-cum-Exclusive Excise Act, No. 2, Katihar/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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