

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43634 of 2023

Arising Out of PS. Case No.-249 Year-2023 Thana- KUCHAIKOTE District- Gopalganj

1. RAHUL KUMAR son of Mritunjay Village- Madan Pur Ps- Chakamhesi Dist- Samastipur At Present- Ankur Bihar, Ps- Loni Dist- Gagiyaabad U.P
2. Shyamal Duwari @ Shyamal Dulari D/o- Manik Duwari A Block Gali No-8, Ganj Bihari Fage-2, Nashaf Garh South west Delhi Nagla

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shyamal Duwari @ Shyamal Dulari Son of Manik Duwari R/o- House No-A, Block Gali no-8, Ganj Bihari Fage-2, Nashaf Garh South West Delhi Nagla

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 43980 of 2023

Arising Out of PS. Case No.-249 Year-2023 Thana- KUCHAIKOTE District- Gopalganj

Om Prakash Sahni Son Of Ashok Sahni Resident Of Village Motihari
Chilwaniya Ps Bajariya, Dist- Motihari

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 43634 of 2023)

For the Petitioner/s : Mr. Sushil Kumar, Advocate

For the Opposite Party/s : Mr. Uma Shankar Prasad Singh, APP

(In CRIMINAL MISCELLANEOUS No. 43980 of 2023)

For the Petitioner/s : Mr. Sushil Kumar, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 27-07-2023

In Cr. Misc. No. 43634 of 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 Kochaikote



P.S. Case No. 249 of 2023 registered for the offence under Section 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 28.05.2023.

4. The allegation against the petitioners is to be engaged in illegal trading/manufacturing of illicit liquor, where, there is recovery of 233.250 litres of IMFL/country made liquor from jointly occupied vehicle.

5. Learned counsel appearing on behalf of the petitioners submitted that alleged recovery of illicit liquor made from a vehicle, which was jointly occupied by other co-accused persons and it can be said safely that recovery of alleged illicit liquor not appears to be made from conscious physical possession of these petitioners. While concluding the argument, it has been submitted that petitioners are men of clean antecedents and moreover, investigation of this case has been completed, for which, charge-sheet has been submitted, 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 liquor appears to be made from jointly occupied vehicle coupled with the fact that charge-sheet has already submitted, where petitioners are in custody since 28.05.2023,



accordingly, both above named petitioners are directed to be released on bail in connection with Kochaikote P.S. Case No. 249 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 Session Judge-IV-cum-Exclusive Special Excise Court-II, Gopalganj/concerned court, subject to the conditions as mentioned under Section 437 (3) of the Cr.P.C. with further conditions:

“(i) That the petitioners shall not involve in similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the learned Trial Court itself for the cancellation of bail bond of the petitioners.

(ii) That accused/petitioners shall cooperate in the trial and shall be physically present on each and every date before the learned Trial Court till the conclusion of trial and exemption from physical appearance be allowed by the learned Trial Court, only on medical ground of the petitioners duly



supported by the documents.

(iii) That one of the bailors shall be deponent of the present bail petition.”

In Cr. Misc. No. 43980 of 2023

Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State.

2. Let the defect(s), if any, be removed within a period of four weeks from today.

3. The petitioners seek bail in connection with Kochaikote P.S. Case No. 249 of 2023 registered for the offence under Section 30(a) of the Bihar Prohibition and Excise Act, 2018.

4. The accused/petitioner is named in the F.I.R. and is in custody since 28.05.2023.

5. The allegation against the petitioner is to be engaged in illegal trading/manufacturing of illicit liquor, where, there is recovery of 233.250 litres of IMFL/country made liquor from jointly occupied vehicle.

6. Learned counsel appearing on behalf of the petitioner submitted that recovery of alleged illicit liquor was made from jointly occupied car and, as such, it can be said safely that recovery of alleged illicit liquor was not made from conscious physical possession of this petitioner. While concluding the argument, it has



been submitted that petitioner found involved in four more criminal cases, where he is on bail and moreover, investigation of this case has been completed, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

7. Learned APP opposes the prayer of bail.

8. Considering the facts and circumstances as mentioned above, as recovery of alleged illicit liquor appears to be made from jointly occupied car coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 28.05.2023, accordingly, above named petitioner is directed to be released on bail in connection with Kochaikote P.S. Case No. 249 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 Session Judge-IV-cum-Exclusive Special Excise Court-II, Gopalganj/concerned court, subject to the conditions as mentioned under Section 437 (3) of the Cr.P.C. with further conditions:

“(i) That the petitioner shall not involve in similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the learned Trial Court itself for the cancellation of bail bond of the petitioner.



(ii) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the learned Trial Court till the conclusion of trial and exemption from physical appearance be allowed by the learned Trial Court, only on medical ground of the petitioner duly supported by the documents.

(iii) That one of the bailors shall be deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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