

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40495 of 2023

Arising Out of PS. Case No.-168 Year-2023 Thana- PHULWARIYA District- Gopalganj

1. Abhishek Kumar Son of Anil Kumar Resident of Oil Mills, Munna Sandha Road, P.O. - Sahebganj, P.S. - Chapra Town, Distt. - Saran
2. Rohit Kumar Son of Muktinath Prasad Resident of Munna Mohalla, P.O. - Sahebganj, P.S. - Chapra town, Distt. - Saran
3. Govind Kumar @ Govinda Kumar Son of Sukhdev Das Resident of BichlaTepla, P.O. - Sahebganj, P.S. - Chapra Town, Distt. - Saran

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Devashish Giri, Advocate
For the Opposite Party/s : Mr.Akbar Ali, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 14-07-2023 Heard Mr. Devashish Giri, learned counsel for the
petitioner and the State.

The petitioners are in custody since 19.5.2023 in connection with Phulwariya P.S. Case No. 168 of 2023 for the offence punishable under Sections 30(a) of Bihar Prohibition and Excise (Amendment) Act, 2018 lodged on 18.5.2023 by the informant Anil Ram.

The prosecution story, in brief, is that on 18.05.2023 at 10:15 am the informant along with police party left the police station for raids and checking vehicles. At 11:30 AM, the informant along with police party reached on a concrete road in



front of mixing plant of one Manoj Rai situated at 'Vanshibataraha' and started checking vehicles during the course of which a Hyundai car was seen coming from the side of Bhore.

The informant tried to stop the car when all the occupants tried to escape but they were apprehended by the police.

Some passers-by gathered at the spot seeing the action of the police but they refused to become witness. Thereafter, two of the constables from the police party became witness to the search. Upon enquiry, the three persons apprehended by the police revealed their names as (i) Abhishek Kumar (driver) who is petitioner no.-1, (ii) Rohit Kumar, who is petitioner no.-2, and (iii) Govind Kumar, who is petitioner no.-3. @pinky Humer Thereafter, their Hyundai car bearing Registration No.- BR 01 BE 9999 was searched and from the trunk and back seat of the car, 17 cartoons of English liquor containing 48 pieces each of 180 ml, in total, 146.880 litres and 1 cartoon of officer's choice English liquor containing 48 pieces each of 180 ml, in total, 8.640 litres, respectively, were recovered. Thereafter, search of the body of the three persons was conducted whereupon a Samsung screen touch mobile with SIMS were recovered from



the possession of Abhishek Kumar (Petitioner No.-1). Upon enquiry regarding the recovered liquor, Abhishek Kumar (petitioner no.-1) told the police that the recovered liquor was bought from Uttar Pradesh and was being carried to Chapra for sell. Thereafter, the recovered liquor, Hyundai Car and Samsung mobile were seized and seizure list was prepared upon which both the independent witnesses put their signature. A copy of the seizure list was provided to all the three persons and after filling the arrest memo all the three persons were formally arrested.

It has been submitted by learned counsel for the petitioner that the vehicle was transferred in the name of petitioner no.1 who was driving the car and all the three petitioners are students, do not have criminal antecedents and for the alleged recovery/seizure, have already suffered by being in custody since 19.5.2023 (as stated in para-1 of the petition).

Learned APP opposes the prayer stating that there is recovery of 155.52 liters of foreign liquor.

Considering the fact that all the petitioners have already suffered by being in custody since 19.5.2023 and will ultimately face the trial, this Court is inclined to extend them the privilege of bail with conditions.

Let the petitioners be released on bail on furnishing



bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned Additional Sessions Judge-II-cum-Special Judge Excise-I, Gopalganj, in connection with Phulwariya P.S. Case No. 168 of 2023 subject to the following conditions:

(i) one of the bailor should be the family member of the petitioners who shall provide official document to show his bona fide;

(ii) the petitioners shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bond by the Trial Court itself;

(iii) the petitioners shall appear before the concerned police station every fortnight for next six months to mark their attendance;

(iv) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioners shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.



With the aforesaid observations, the bail application is
allowed.

(Rajiv Roy, J)

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