

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48022 of 2023

Arising Out of PS. Case No.-59 Year-2023 Thana- KHANPURA District- Samastipur

1. Mukesh Kumar @ Mukesh Kumar Mahto Son Of Dev Narayan Mahto Resident Of Village- Khanpur, Ward No. 10, Ps- Khanpur, Dist- Samastipur, Bihar
2. Jitendra Kumar Son Of Dev Narayan Mahto Resident Of Village- Khanpur, Ward No. 10, Ps- Khanpur, Dist- Samastipur, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Madhav Kumar, Advocate.
For the Opposite Party/s : Mr. Surendra Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-08-2023 Heard Mr. Madhav Kumar, learned counsel for the petitioners and learned APP for the State.

2. The Petitioners are apprehending their arrest in connection with Khanpur P.S. Case No.59 of 2023, registered for the offences punishable under Sections 30(a) and 37(C) of the Bihar Prohibition and Excise (Amendment) Act.

3. Allegedly, on a secret information the police conducted a raid in the house of the petitioner and on search 37.890 liters of Indian made foreign liquor was recovered. It is further alleged that co-accused Rajesh Mahto was apprehended by the police at the spot and he was found in inebriated condition.



4. Learned counsel appearing on behalf of the petitioners vehemently submits that name of the petitioners have been implicated only on account of the fact that they are brothers of the apprehended person, Rajesh Mahto and save and except this fact there is nothing against the petitioners. He further submits that the recovery has been made from a residential house where several family members including the petitioners have been residing and as such they cannot be made responsible for the same. That apart, the petitioners also explained reasons of their false implication at the hands of the police party.

5. On the other hand learned APP for the State vehemently opposes the bail application and submits that the petitioner no.1 bears three criminal antecedents of identical nature over his head, whereas petitioner no.2 he has one criminal antecedent as has been mentioned in paragraph no.3 of the petition. He further submits that the alleged recovery has been made from the residential house of the petitioners.

6. Regard being had to the submissions made on behalf of the parties and considering the criminal antecedent of the petitioners in identical matter as also the statutory provisions under Section 76 (2) of the Bihar Prohibition and Excise Act,



which bars the maintainability of anticipatory bail, in the matter like the present, this court is not persuaded to enlarge the petitioner on anticipatory bail, as such the prayer for anticipatory bail of the petitioners are hereby rejected.

7. However, the petitioners are directed to surrender before the Court below within a period of four weeks and if both the petitioners would surrender and seek their regular bail, the Court below shall consider their case taking into account that they were not present at the house and the house from where recovery has been made belongs to the joint family.

8. Accordingly, the present petition stands dismissed.

(Harish Kumar, J)

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