

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47148 of 2022

Arising Out of PS. Case No.-152 Year-2022 Thana- KOCHADHAMAN District- Kishanganj

1. DEVNATH PRAJAPATI S/O SRI HARIHAR PRAJAPATI Resident of village- Golhana, P.O.- Naudha, P.S.- Pandwa, District- Palamu, Pincode- 822123 (Jharkhand).
2. SITTU RAM S/O GUDDI RAM Resident of Village- Shakhua, P.O.- Nawdiha, P.S.- Pandwa, District- Palamu, Pincode- 822123 (Jharkhand).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 48582 of 2022

Arising Out of PS. Case No.-152 Year-2022 Thana- KOCHADHAMAN District- Kishanganj

KRISHNA YADAV Son of Devnand Yadav R/V- Bairiya, P.S- Keshariya, Dist- East champaran at Motihari

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 53965 of 2022

Arising Out of PS. Case No.-152 Year-2022 Thana- KOCHADHAMAN District- Kishanganj

SHASHI PANDIT @ SHASHI KUMAR JHA @ SHASHI JHA Son of Sri Lal Babu Jha Resident of Village - Mahishar, Ward No.06, P.O.- Belahi Nikanth, P.s.- Runnisaidpur, Distt.- Sitamarhi (Bihar)

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 47148 of 2022)

For the Petitioner/s : Mr.Upendra Kumar Singh, Advocate

For the Opposite Party/s : Mr.Umeshanand Pandit, APP

(In CRIMINAL MISCELLANEOUS No. 48582 of 2022)

For the Petitioner/s : Mr.Radha Mohan Singh, Advocate

For the Opposite Party/s : Mr.Ram Bilash Roy Raman, APP



(In CRIMINAL MISCELLANEOUS No. 53965 of 2022)

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

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

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 15-02-2023 As all the criminal miscellaneous petitions have arisen out of same P.S. case, hence they are being taken up and decided together.

Heard learned counsels for the petitioners and the learned APPs for the State.

Petitioners seek regular bail in connection with Kochadhaman P.S. Case No. 152 of 2022 registered for the offences punishable under Sections 420, 467, 468, 471 and 120B of the Indian Penal Code and Sections 30(a), 31, 32, 36, 41(1) of Bihar Prohibition and Excise Act, 2016(18).

As per the prosecution, the police personnel acting upon a secret information searched the alleged vehicle and recovered huge quantity of 7127 liters of foreign liquor and apprehended the petitioners namely Devnath Prajapati and Sittu Ram from the alleged vehicle who revealed the role of other petitioners in the smuggling of alleged wine.

The main submissions advanced by the learned counsel Mr. Upendra Kumar Singh for the petitioners Devnath Prajapati and Sittu Ram are that the petitioner No.1 was the driver and petitioner No.2 was the co-driver of the alleged truck



from which the recovery of the alleged wine was made and both the petitioners have fair and clean antecedent and in the instant matter of recovery of wine except the witnesses of the seizure memo all other witnesses are police personnel and against both the petitioners the investigation has been completed and charge has been framed upon them and they have been languishing in jail since 24.06.2022.

The main submissions advanced by learned counsel Mr. Radha Mohan Singh for the petitioner Krishna Yadav are that as per the allegation appearing against the petitioner from the FIR and from the statement of the co-accused Devnath Prajapati, this petitioner was alleged to be present when the alleged wine was loaded in the truck in Arunachal Pradesh State but petitioner's role in the State of Bihar in respect of the smuggling of the alleged wine was not disclosed and accordingly the petitioner did not commit any offence or act which is punishable under the Bihar Prohibition and Excise Act and simply his presence at the place where the alleged wine was loaded cannot make him liable for any penal provision under the Bihar Prohibition and Excise Act. Further submission is that the petitioner was arrested from Itanagar on 10.07.2022 and he has fair and clean antecedent and his name was disclosed by the co-



accused Devnath Prajapati who is stated to be the driver of the alleged vehicle.

Learned counsel Mr. Anil Kumar for the petitioner Shashi Pandit @ Shashi Kumar Jha @ Shashi Jha submits that as per the prosecution story narrated in the FIR this petitioner's mobile number was simply provided to the driver of the alleged vehicle but the same was not used for any purpose and except this there is no any other allegation against the petitioner and he has been languishing in jail since 15.07.2022 and he is a transporter.

Learned APPs Mr. Umeshanand Pandit, Mr. Ram Bilash Roy Raman and Mr. Yogendra Kumar Singh appearing for the State have opposed the bail prayer of all the petitioners.

Heard both the sides and perused the FIR and the seizure memo attached to the FIR. The instant matter relates to recovery of 7127 litres of foreign liquor which was recovered from a truck and the petitioner Devnath Prajapati and Sittu Ram were found in the alleged vehicle in the capacity of driver and co-driver and as per the prosecution's story narrated in the FIR other petitioners were also involved in the alleged smuggling of the said wine in different manner and the activity of the smuggling was being conducted in a very planned manner by



forging the number plate of the alleged vehicle as well as by preparing the forged documents relating to the said vehicle and the other materials. Considering the nature of the allegation appearing against these petitioners, in the opinion of this Court petitioners do not deserve to the privilege of bail. Accordingly, their bail prayer stands rejected.

(Shailendra Singh, J)

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