

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51723 of 2023

Arising Out of PS. Case No.-258 Year-2023 Thana- PHULWARIYA District- Gopalganj

1. MITHLESH TIWARI son of Somnath Tiwari.
2. Rajmohan Madhesiya @ Rajmohan Madesiya son of Kamlesh Madhesiya.
Both resident of village – Tekuatar, P.S. Ramkola, District Kushinagar, Uttar Pradesh.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Setu Prateek, Advocate

For the Opposite Party/s : Mr.Anand Kishore Choudhary, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 17-08-2023 Heard learned counsel for the petitioners and learned
APP for the State.

The petitioners are in judicial custody in connection with Phulwariya P.S. Case No. 258 of 2023 registered under Section 30 (a) of the Bihar Prohibition and Excise Amendment Act, 2022 lodged on 18.07.2023 by the informant, Prince Kumar.

As per the prosecution story, the police intercepted two vehicles which included a car and a motorcycle and from a sack on the motorcycle, nine (9) liters of country made liquor while from the Car, 171 liters of country made liquor was/were recovered. The petitioners were inside the car. This followed the FIR/arrest.



The case of the petitioners is/are that they do not own the car and the petitioners are driver and his colleague and have no knowledge of the presence of the liquor in the car. They do not have criminal antecedent and have suffered by being in custody since 19.07.2023 (as stated in paragraph-10 of the petition)

Learned APP for the State opposes the prayer for bail stating that they were driving the car as such, cannot exonerate themselves from the responsibility.

Considering the submissions put forward by the learned counsel for the petitioners and the period of custody as also that they do not have criminal antecedent, this Court is inclined to grant them the privilege of bail.

Let the petitioners, above named, be released on bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional District Judge -II cum Special Judge, Excise Court No. 1, Gopalganj in connection with Phulwariya P.S. Case No. 258 of 2023 subject to the following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her *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 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 their 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 the bail bonds.

(Rajiv Roy, J)

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