

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58169 of 2023

Arising Out of PS. Case No.-328 Year-2022 Thana- BARAHAT District- Banka

1. SUMIT KUMAR son of Shamsheer Singh R/o- New Balmiki Colony Hari Road Gali No-2, Karnal Ps- Karnal Dist- Haryana
2. Deepak Kumar son of Lal Bahadur Sah Village- Sarsah Ps- Kundali Dist- Sonapat Haryana

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhishek, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 06-09-2023 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. Petitioners seek bail, who are in custody since 24.12.2022 in connection with Special Case No.1999 of 2022 arising out of Barahat P.S. Case No. 328 of 2022, F.I.R. dated 13.07.2023 for the offences punishable under Sections 420, 467, 468, 471 of the Indian Penal Code and Section 30(a), 32(2) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. Recovery is of total 2205.090 liters of Indian Made Foreign Liquor.

4. Learned counsel for the petitioners submits that petitioner no.1 has clean antecedent and petitioner no.2 carries



one criminal antecedent other than the present one, in which he is on bail. He further submits that petitioners are innocent and they have falsely been implicated in the present case and the allegation as alleged in the F.I.R. is false and fabricated. He further submits that it appears from the F.I.R. as well as seizure list that nothing has been recovered from the conscious possession or the house of the petitioners rather the recovery has been made from the truck in question. He further submits that petitioner no.1 is the driver and petitioner no.2 is khalasi of the truck in question and they have no concern at all with the alleged recovery of illicit liquor and there is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C. He further submits that the police after investigation submitted the charge sheet against these petitioners and the petitioners are in custody since 24.12.2022.

5. The learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioners and submits that petitioner no.1 has clean antecedent and petitioner no.2 carries one criminal antecedent other than the present one, in which he is on bail.

6. Considering the aforesaid facts and circumstances, petitioner no.1 has clean antecedent and nothing has been



recovered from the conscious possession of these petitioners, let the petitioners, above named, be released on bail, **after framing of charge**, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge-II, Banka in connection with Special Case No.1999 of 2022 arising out of Barahat P.S. Case No. 328 of 2022, subject to the following conditions:-

1. One of the bailor should be father of these petitioners.

2. Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

3. If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

4. And further condition that the court below shall verify the criminal antecedent of the



petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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