

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55001 of 2023

Arising Out of PS. Case No.-35 Year-2023 Thana- ANDHRAMATH District- Madhubani

1. RAJ KUMAR MUKHIYA SON OF GUNJAN MUKHIYA @ GUJAN MUKHIYA R/O VILL- BATASPUR, PS- CHANAN, DIST-LAKHISARAI
2. NITISH KUMAR SON OF GUNJAN MUKHIYA @ GUJAN MUKHIYA R/O VILL- BATASPUR, PS- CHANAN, DIST-LAKHISARAI

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Bharti, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 25-08-2023

Heard the parties.

The petitioners are accused in connection with Andhramath P.S. Case No. 35 of 2023 registered for the offences under sections 272, 273, 414 and 34 of the Indian Penal Code and section 30(a) of the Bihar Prohibition and Excise (Amendment) Act lodged on 19.03.2023 by the informant, Dheeraj Kumar.

The prosecution story alleges that the two motorcycles were intercepted and 162 litres and 126 litres (totalling 288 litres nepali saufi wine) was/were recovered and both the brothers-petitioners were arrested. Accordingly, the FIR.



It is the case of the petitioner that the police has implicated them, none of the two motorcycles belong to them and further they were accompanied by friends and did not know that the sacks that is/are hanging in the motorcycles belong to them, they are in custody since 19.03.2023 (as stated in paragraph 13 of the bail application).

Learned APP for the State, on the other hand, opposes the prayer for bail.

Taking into account the facts that the two petitioners are brothers, 23 and 19 years of age, the motorcycles does not belong to them, FIR lodged and ultimately will face the trial, this Court is inclined to extend him privilege of bail.

Let the petitioners be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousands only) with two sureties of like amount each to the satisfaction of the learned Special Judge Excise Act, Jhanjharpur, Madhubani in connection with Andhramath P.S. Case No. 35 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 their *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 petitioner shall appear before the concerned police station every month for next one year to mark attendance;

(iv) the petitioner 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 his bail bonds;

(v) the petitioner 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.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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