

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59134 of 2022**

Arising Out of PS. Case No.-84 Year-2022 Thana- KALER District- Jehanabad

1. AASHU S/O - Pawan Kumar R/O Vill- Bara Gaon, P.S- Kunjpura, Distt-Karnal (Hariyana)
2. Arvind S/O - Shree Krishan R/O Vill- Bara Gaon, P.S- Kunjpura, Distt-Karnal (Hariyana)

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Choubey Jawahar, APP

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER**

2 04-01-2023 Learned counsel for the petitioners is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Dheeraj Kumar, learned counsel for the petitioners and Mr. Choubey Jawahar, learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioners, above named, who have been made accused and put behind the bar in connection with Kaler P. S. Case No. 84 of 2022 registered for the offences punishable under Section 30 (a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

As per the prosecution case, it is alleged that the



police, in course of vehicle checking, intercepted a six wheelers truck loaded with cartoon. On search, altogether 2647.44 litres Indian made foreign liquor was recovered.

Learned counsel appearing on behalf of the petitioners submitted that the petitioners are neither owner of the vehicle nor they are transporter and being driver and co-driver they used to run the vehicle on the dictate of the owner and the goods were loaded by the transporter and in fact, they were not even aware as to what was loaded in their truck. It is further submitted that from the seizure list, it is evident that the alleged seizure list has been prepared in the premises of Kaler Police Station and there is no independent witness to the search and as such, there is complete violation of Section 100 of the Cr.P.C.. It is next submitted that the petitioners have fair antecedent, are in custody since 10.09.2022 and moreover, the charge sheet has been submitted.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that a huge quantity of the Indian made foreign liquor was recovered from the vehicle which was being driven by the petitioner no. 1 and the petitioner no. 2 was the co-driver of the vehicle and their complicity cannot be denied.



Regard being had to the submissions made on behalf of the parties and taking into account the fact that the petitioners are driver and co-driver of the vehicle, in question, and they are in custody since 10.09.2022 and moreover, the investigation of the crime is already complete and charge sheet has been submitted, let the petitioners, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge-2 Excise, Jehanabad in connection with Kaler P. S. Case No. 84 of 2022, subject to the condition that one of the bailors will be the close relative of the petitioners with further conditions which are as follows:-

- (i) The petitioners will cooperate in conclusion of the trial.
- (ii) They will remain present on each and every date of trial till disposal of the case.
- (iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.



(v) 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 cancelling 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.

(Harish Kumar, J)

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