

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65905 of 2023

Arising Out of PS. Case No.-794 Year-2023 Thana- PHULWARISHARIF District- Patna

1. PINTU KUMAR SON OF RAJNANDAN SINGH RESIDENT OF LODIPUR (MAHNGUPUR), PS- JANIPUR, PHULWARISHARIF, DIST- PATNA
2. LAKSHMAN KUMAR @ LAKSHMI KUMAR SON OF MUNNA LAL RAI RESIDENT OF LODIPUR (MAHNGUPUR), PS- JANIPUR, PHULWARISHARIF, DIST- PATNA

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Harish Kumar
For the Opposite Party/s : Mr.Manoj Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 29-11-2023 Heard learned counsel for the petitioners and

learned A.P.P. for the State.

1. The petitioners seek bail in connection with Phulwarisharif (Janipur) P.S. Case No. 794 of 2023 registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

2. As per prosecution case, 1625.655 litre foreign liquor was recovered from boundary wall, situated near the brick kiln in the west-south direction of Scholar Aboard School at village Naharpura. The police inquired about the seized liquor from the villagers but they did not disclose anything and, hence, F.I.R. registered against unknown.



3. Learned counsel for the petitioners submits that petitioners are not named in F.I.R. During the course of investigation, petitioners have admitted their guilt and have confessed that they are engaged in sale and purchase of the illicit liquor. Except their confession, there is nothing on record to demonstrate the complicity of the present petitioner with the alleged occurrence. He further submits that the place of recovery is an open place which is accessible to all. He further submits that the land from where the alleged recovery has been made, does not belong to the petitioners. From the perusal of F.I.R., it appears that the occurrence has taken place on 31.05.2023 and petitioners are in custody since 16.06.2023 which reflects that they are not apprehended on the spot. Learned counsel for the petitioners orally submits that charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. Nothing has been recovered from the conscious possession of the petitioner. They bear criminal antecedent of one case in which they are on bail.

4. The learned A.P.P. for the State opposes the prayer for bail of the petitioners.

5. Considering the facts and circumstances of the case, period of custody, petitioners are not apprehended on the



spot, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioners above named be released on bail, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise, Patna in connection with Phulwarisharif (Janipur) P.S. Case No. 794 of 2023, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioners will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) 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.

(Alok Kumar Pandey, J)

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