

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61125 of 2022

Arising Out of PS. Case No.-394 Year-2022 Thana- KATEYA District- Gopalganj

1. SRI NIWAS YADAV @ SRI NIWASH YADAV S/O Nathuani Yadav @ Nathuni Sah R/O Village- Balua Samsher Shahi, P.S- Pataherwa, District- Kushinagar (U.P)
2. DHARMENDRA KUSHWAHA S/O Suresh Kushwaha R/O Village- Raj Mathauli, P.S- Pataherwa, District- Kushinagar (U.P)
3. CHHOTELAL YADAV S/O Late Bahadur Yadav R/O Village- Lawniya, P.S- Pataherwa, District- Kushinagar (U.P)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Javed Aslam

For the Opposite Party/s : Mr. Humayou Ahmad Khan

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 13-01-2023 Heard Ld. counsel for the petitioners and Ld. APP

for the State.

The petitioners seek bail in connection with Kateya P.S. Case No. 394 of 2022, registered for the offences punishable under Sections 414 and 34 of the Indian Penal Code and Section 30(a) of Bihar Prohibition and Excise Act, 2016.

As per allegation, total 83.520 litres of foreign liquor was recovered from a Mahindra Jeep.

Ld. counsel for the petitioners submit that the



petitioners are innocent and have falsely been implicated in this case. They further submits that the petitioners are neither the driver nor the owner of the vehicle, they are just passerby and thus they were not aware of the content of the materials loaded in the vehicle. They also submit that nothing has been recovered from the conscious possession of the petitioners. They further submit that search and seizure has not been made as per the procedure as prescribed under Section 100 Cr. P.C.

They further submit that the petitioners have been languishing in jail since 06.09.2022.

It has also been stated in paragraph no. 3 of the bail petition that the petitioners have no criminal antecedents.

It is also stated in paragraph no. 2 of the bail petition that the petitioners have not moved this Court earlier either for anticipatory bail or regular one.

However, Ld. APP for the State vehemently opposes the prayer of the petitioners for bail.

Considering the aforesaid facts and circumstances,



this application is allowed, directing the petitioners, above-named, to be enlarged on bail on their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the Ld. Additional Sessions Judge-II-cum-Special Judge Excise-I, Gopalganj in connection with Kateya P.S. Case No. 394 of 2022 on the following conditions:

(i) The petitioners will make themselves available for interrogation by a police officer/court as and when required.

(ii) The petitioners will undertake that investigation/trial will not hamper on account of their absence or non-cooperation. They must be available to the police or the court whenever their presence is required.

(iii) The petitioners shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the court



below that the petitioners have any criminal antecedents, Ld. court below shall cancel the bail bond of the petitioners after hearing them and getting satisfied that the petitioners have concealed their criminal antecedents despite their knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, Ld. court below shall cancel the bail bond of the petitioners.

Ld. counsel for the petitioners is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

(Jitendra Kumar, J)

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