

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70603 of 2023

Arising Out of PS. Case No.-769 Year-2023 Thana- Excise P.S. District- Banka

1. Md. Sajalum Sah @ Sajlum Shah Son Of Md. Islam R/O Village-
Hathiundha, P.S.- Bihariganj, District- Madhepura
2. Mangal Kumar Sonof Late Rajoswarankar @ Late Rajoswarnakar R/O
Village- Bihariganj, P.S.- Bihariganj, District- Madhepura

... .. Petitioner/S

Versus

The State Of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dipak Kumar, Adv.

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

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 09-11-2023 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners seek regular bail in connection with
Banka Excise P.S. Case No. 769 of 2023 (Excise Complaint
Case No.769 of 2023) lodged under Sections 30(a) and 41 of
Bihar Prohibition and Excise (amended) Act, 2016.

3. As per the prosecution case, the F.I.R. has been
lodged against the petitioners and 2 other persons. The total
recovery of 765 liter wine has alleged to be made, which is
subject matter of the present case.

4. Learned counsel for the petitioners submits that the
petitioners are innocent and have committed no offence. He



submits that petitioners are driver and co-driver of the vehicle from which the said wine has alleged to be recovered. Counsel submits that petitioners were completely unaware that what is loaded on the vehicle.

5. Counsel for the petitioners submits that petitioners are in custody since 12.09.2023 having clean antecedent.

6. Learned counsel for the State opposes the prayer for bail and submits that it is true that antecedent of the petitioners are clean, but it is also true that offence under Excise Act has been made out.

7. In the present facts and circumstances of this case and the submissions made above, let the petitioners above named, be granted bail, **but only after framing of charge**, on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge -V, Banka, in connection with Banka Excise P.S. Case No. 769 of 2023 (Excise Complaint Case No.769 of 2023), subject to the following conditions as laid down under Section 437(3) of Cr.P.C. with other 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 bonds by the Trial Court itself;

(iii) the petitioners shall appear before the concerned police station every month for one year to mark attendance;

(iv) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of the bail bonds; and

(v) the petitioners 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.

(Dr. Anshuman, J.)

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