

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69884 of 2022

Arising Out of PS. Case No.-397 Year-2022 Thana- MAIRWAN District- Siwan

1. Jitendra Kumar S/O Prabhu Mahato Resident of village- Bishunpur, P.S.- Mahodinagar, District- Samastipur.
2. Niraj kumar singh s/o akhilesh singh Resident of village- Rupas Mahadi, P.S.- Salimpur, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Vaishnavi Singh

For the Opposite Party/s : Mr. Sanjay Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 07-02-2023 Heard Ld. counsel for the petitioners and Ld. APP
for the State.

The petitioners seek bail in connection with Mairwa
P.S. Case No. 397 of 2022, registered for the offences
punishable under Section 30(a) of the Bihar Prohibition and
Excise Act, 2016.

As per allegation, 725.760 litres of foreign made
liquor was recovered from a Pick-Up bearing Registration
No. BR-01-GD4133.

Ld. counsel for the petitioners submits that the
petitioners are innocent and have falsely been implicated in



this case. He further submits that nothing has been recovered from the conscious possession of the petitioners. He also submits that petitioners are neither driver nor owner of the vehicle. He further submits that search and seizure has not been made as per the procedure as prescribed under Section 100 Cr.P.C.

He further submits that the petitioners have been languishing in jail since 23.10.2022.

It has also been stated in paragraph no. 3 of the bail petition that the petitioner, namely, Niraj Kumar Singh earlier been made accused in one other case, whereas petitioner, namely, Jitendra Kumar has 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 Ld. Exclusive Spl. Excise Court No.1, Siwan in connection with Mairwa P.S. Case No. 397 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 him 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 criminal antecedents other



than the disclosed one, Ld. court below shall cancel the bail bonds 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 bonds of the petitioners.

(vi) In case, the petitioner repeats offence of similar nature after enlargement on bail, his bail-bond will be cancelled by the Court below.

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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