

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77199 of 2023

Arising Out of PS. Case No.-1088 Year-2023 Thana- Excise P.S. District- Bhagalpur

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1. KESHAV KUMAR S/O SRI SURYANARAYAN YADAV R/O VILLAGE-KUMARKHAND, P.S- KUMARKHAND, DISTT.- MADHEPURA.
 2. PRINCE KUMAR S/O SRI SADANAND YADAV RESIDENT OF-SAPARDAH, P.S.- PURAINI, DISTRICT- MADHEPURA

... .. Petitioner/s

Versus

THE STATE OF BIHAR PATNA BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Diwakar Upadhyaya
For the Opposite Party/s : Mr.Md. Iftekhar Mahmood

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 02-12-2023 Learned counsel for the petitioners is permitted to make necessary correction in para-3 of the bail petition during course of the day.

2. Heard learned counsel for the petitioners and learned A.P.P. for the State.

3. The petitioners seek bail in connection with Excise (Sadar) P.S. Case No. 1088 of 2023 (District-Bhagalpur) registered for the offence punishable under Section 30(a) of Bihar Prohibition and Excise (Amendment) Act, 2018.

4. As per prosecution case, petitioners and other apprehended on the spot as the occupant of the car in question and during course of search of the said car, 167.76 litre illicit



foreign liquor was recovered.

5. Learned counsel for the petitioners submits that petitioner no. 1 is a student and he has taken lift in the said car. Petitioner no. 1 has no knowledge regarding the alleged liquor that has been kept in the car in question. He has nothing to do with the alleged occurrence. Petitioner no. 2 is not owner of the car in question rather he is merely a driver of said car and he has to follow the instruction of the owner to earn his livelihood. Petitioner no. 2 has no knowledge regarding the alleged liquor that has been kept in the car in question. He has nothing to do with the alleged recovery. Petitioners are in custody since 30.08.2023 and bear no criminal antecedent. No incriminating article has been recovered from conscious possession of the petitioners. Seizure list has not been made as per law. Learned counsel orally submits that charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence.

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

7. Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of petitioners, 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 Exclusive Special Excise Judge-1 cum A.D.J.-IX, Bhagalpur in connection with Excise (Sadar) P.S. Case No. 1088 of 2023 (District-Bhagalpur), 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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