

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75419 of 2023

Arising Out of PS. Case No.-424 Year-2023 Thana- Excise P.S. District- Bhagalpur

1. NITISH KUMAR @ NITISH RAJ JAY KUMAR @ JAY KUMAR YADAV
R/O Arrah Mahua, P.S. - Ghelar, District- Mdhepura.
2. Gulshan Kumar Arjun Yadav R/O village- Rajpur Sarsandi, Ward no. 6, P.S.
Golpura, District- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Indeshwari Prasad Mandal
For the Opposite Party/s : Mr.Akshay Lal Pandit

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 28-11-2023 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners seek bail in connection with I.A.
No. 1/2023 in G.R. No. 4380/2023, Excise (Kahalgaon) P.S.
Case No. 424/2023 registered for the offences punishable under
Sections 30A of the Bihar Prohibition and Excise Amendment
Act.

As per prosecution case, the informant along with
police officials intercepted one Bolero vehicle in question and
apprehended the driver and co-driver of the vehicle who
disclosed their name as Gulsan Kumar(Petitioner No. 2) and
Nitish Raj(Petitioner no. 1). On search of the vehicle, 599.97
litre Indian made foreign liquor was found. On interrogation, the
apprehended accused persons(petitioners) disclosed that the
vehicle in question registered in the name of Fekan Singh and



seized liquor belonged to Google Yadhav and Rahul Yadhav.

Learned counsel for the petitioners submits that petitioner no. 2 is driver and petitioner no. 1 is co-driver of the vehicle in question. The petitioners are not the registered owner of the vehicle in question, as it is evident from the FIR itself. Petitioners have nothing to do with the alleged recovery. They have to follow the instruction of the owner to earn their livelihood. Petitioners are in custody since 07.09.2023. Learned counsel orally submitted that chargesheet has already been submitted in the case and there is no likelihood of tampering with the prosecution evidence. It is further submitted that the petitioners are innocent and have committed no offence as alleged in the FIR and they have falsely been implicated in this case. Petitioners bear no criminal antecedent.

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

Considering the facts and circumstances of the case, period of custody, keeping in view the clean antecedent of the petitioners, chargesheet has already been submitted and there is no likelihood of tampering with the prosecution evidence, 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-I, Bhagalpur in connection with I.A. No. 1/2023 in G.R. No. 4380/2023, Excise (Kahalgaon) P.S. Case No. 424/2023 , subject to the 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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