

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71295 of 2022

Arising Out of PS. Case No.-401 Year-2022 Thana- KATEYA District- Gopalganj

1. KANHAIYA RAI Son of Lala Rai Resident of village - Koyala Kund, P.S.- Kalyanpur, District - Samastipur
2. Binod Sahani @ Vinod Sahani @ Binodh Sahani Son of Soli Sahani @ Surendra Sahni Resident of village - Koyala Kund, P.S.- Kalyanpur, District - Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jitendra Narain Sinha
For the Opposite Party/s : Mr. Shyam Bihari Singh

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 10-02-2023 Ld. Counsel for the petitioner submits that

Petitioner No.1- Kanhaiya Rai, has died.

Hence, the petition of the petitioner on.1 has

become infructuous.

The petition is dismissed with respect to petitioner

no. 1 as having become infructuous.

Heard Ld. counsel for the petitioners and Ld. APP

for the State.

The petitioners seek bail in connection with Kateya

P.S. Case No. 401 of 2022, registered for the offences

punishable under Sections 414 and 34 of the I.P.C. and



30(a) of the Bihar Prohibition and Excise Act, 2016.

As per allegation 185.760 liters of foreign-made liquor has been recovered from a tempo.

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 possession. He also 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 11.09.2022.

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 Ld. Additional Sessions Judge II-cum-Special Judge Excise-I, Gopalganj in connection with Kateya P.S. Case No. 401 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 get hampered 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 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 petitioners repeat offence of similar nature after enlargement on bail, their 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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