

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 73151 of 2022

Arising Out of PS. Case No.-25 Year-2022 Thana- MOHAMMADPUR District- Gopalganj

1. FARKU RAI @ PHARKU YADAV Son of Late Devraj Rai R/v- Karasghat, P.S.- Mohammadpur, District- Gopalganj
2. SHAILENDRA RAI Son of Farku Rai @ Pharku Yadav R/v- Karasghat, P.S.- Mohammadpur, District- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Satish Kumar Sinha, Adv.
Mr. Pankaj Kumar Dubey, Adv.
For the Opposite Party/s : Mr. Anil Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 12-04-2023 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

Petitioners seek bail, who are in custody since 20.10.2022 & 02.11.2022 respectively, in connection with Mohammadpur P.S. Case No. 25 of 2022, F.I.R. dated 15.02.2022 registered for the offences punishable under Sections 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

According to prosecution case, total 1600 litres of raw spirit are said to have been recovered from the asbestos house of the petitioners.

Learned counsel for the petitioners submits that the petitioners have falsely been implicated in the present case. In fact, the petitioner no.1 carries one antecedent and the petitioner no.2



has clean antecedent. He further submits that it appears from the F.I.R. as well as the seizure list that altogether 1600 litres of raw spirit have been recovered from the agricultural field and asbestos house of the petitioners. He further submits that the petitioner no.2 is son of the petitioner no.1, so, the petitioner no.2 has falsely been implicated in the present case and there is non-compliance of Section 100 of the Cr.P.C. He further submits that the police after investigation, submitted the charge sheet against the petitioners and the petitioner no.1 is 20.10.2022 and the petitioner no.2 is in custody since 02.11.2022.

The learned Additional Public Prosecutor for the State on the other hand vehemently opposed the prayer of bail of the petitioners on the ground that the petitioner no.1 carries one criminal antecedent other than the present one.

Considering the aforesaid facts and circumstances as well as period of custody, let the petitioners, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge II-cum-Special Judge Excise, Gopalganj, in connection with Mohammadpur P.S. Case No. 25 of 2022, subject to the following conditions:-

1. Petitioners shall co-operate in the trial and shall be



properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

2. 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.

3. And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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