

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76369 of 2023

Arising Out of PS. Case No.-1318 Year-2023 Thana- Excise P.S. District- Patna

1. Md. Kadir Son of Md. Aslam R/O Village- Malpur Singhara, P.S.- Mahua, Dist.-Vaishali.
2. Imran Hashmi @ Imran Hasmi Son of Md. Kalam Resident of Village- Bangh Tola, Police Station Mahua, District- Vaishali.
3. Md. Mumtaz Son of Md. Shamim Resident of Mohalla- Gayghat Under The Bridge, Danka Imli, Police Station- Alamganj, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Aryan Singh
For the Opposite Party/s : Mr. Mohammed Arif

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 30-11-2023 Heard learned counsel for the petitioners and
learned A.P.P. for the State.

2. The petitioners seek bail in connection with Special Case No. 6327/2023 arising out of Excise Patna P.S. Case No. 1318/2023 registered for the offences punishable under Sections 30(a)/56(b) of the Bihar Prohibition and Excise Act, 2016 / Amendment Act, 2022.

3. As per prosecution case, there was alleged recovery of 100 liters country made liquor from a motorcycle in question and 300 liters country made liquor also recovered from a boat in question. Boat and motorcycle were recovered from



Kangan Ghat near the bank of the Ganga river. It is further alleged that petitioner nos. 1 and 3 were apprehended alongwith motorcycle and petitioner no.2 apprehended on the boat.

4. Learned counsel for the petitioners submits that petitioners are innocent and have falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioners. The petitioners are languishing in custody since 05.08.2023 and bear no criminal antecedent. He further submits that the petitioners alongwith other passengers were coming to Patna from Diyara side and on seeing the police party the real seller of the liquor managed to flee away but these petitioners were arrested by the police and later on implicated in the present case. He further submits that the petitioners were neither concerned with said motorcycle nor boat nor was concerned with the seized liquor. He further submits that the seizure list has not been prepared as per the law.

5. The learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioners.

6. Considering the facts and circumstances of the case, period of custody and 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 bonds of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise, Patna in connection with Special Case No. 6327/2023 arising out of Excise Patna P.S. Case No. 1318/2023, 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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