

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74451 of 2022

Arising Out of PS. Case No.-63 Year-2022 Thana- TERHAGACHH District- Kishanganj

1. MD. MANJAR ALAM @ MANJAR ALAM Son of Md. Ainul Resident of Village- Bhorha Hariharpur, Ward No.-03, P.S.- Tedhagachh, District- Kishanganj
2. MD. KASIM Son of Md. Irfan Resident of Fulbari, Ward No.-07, P.S.- Tedhagachh, District- Kishanganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dilip Kumar Singh, Advocate
For the Opposite Party/s : Mrs. Renu Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 17-04-2023 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

Petitioners seek bail, who are in custody since 10.11.2022 in connection with Special Case No. 1363 of 2022 arising out of Tedhagachh P.S. Case No. 63 of 2022, F.I.R. dated 10.11.2022 for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

Recovery is of total 71 liters of Nepali liquor.

Learned counsel for the petitioners submits that petitioners have clean antecedent and they have falsely been implicated in the present case. He further submits that it appears from the F.I.R. as well as seizure list that nothing has been



recovered from the conscious possession of the petitioners rather the recovery has been made from the motorcycle in question and petitioners have no concern at all with the alleged recovery of illicit liquor. He further submits that there is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C. and the police after investigation submitted the charge sheet against these petitioners and the petitioners are in judicial custody since 10.11.2022.

The learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioners.

Considering the aforesaid facts and circumstances, petitioners are clean antecedent and nothing has been recovered from the conscious possession of the petitioners, 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 A.D.J.-II-cum-Special Judge (Excise-I), Kishanganj in connection with Special Case No. 1363 of 2022 arising out of Tedhagachh P.S. Case No. 63 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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