

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7379 of 2023

Arising Out of PS. Case No.-207 Year-2022 Thana- LAKHNAUR District- Madhubani

1. ARUN MAHTO, aged about 35 years, Male, Son of Ganga Prasad Mahto, Resident of Village- Adalpur Musharhi Tol, P.S.- Jhanjharpur, District- Madhubani.
2. SHRAWAN SADAY, aged about 33 years, Male, Son of Khattar Saday, Resident of Village- Adalpur Musharhi Tol, P.S.- Jhanjharpur, District- Madhubani.
3. SHAMBHU SADAY, aged about 30 years, Male, Son of Triveni Saday, Resident of Village- Adalpur Musharhi Tol, P.S.- Jhanjharpur, District- Madhubani.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Ratanakar Jha, Advocate
For the Opposite Party : Mrs. Asha Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 29-04-2023 Learned counsel for the petitioners is directed to remove the defect(s), as pointed out by the office notes dated 30.01.2023, within a period of four weeks.

Heard learned counsel for the petitioners and learned A.P.P. for the State.

The petitioners are apprehending their arrest in connection with Lakhnaur (R.S.O.P.) P.S. Case No. 207



of 2022, corresponding to G.R. No. 851 of 2022 registered for the offence under Sections 272, 273/34 of the I.P.C. and Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

The prosecution story, in brief, is that total 224.28 liters wine is said to have been recovered from the bush situated behind the house of co-accused Lalan Rai.

It has been submitted by learned counsel for the petitioners that the petitioners have got no criminal antecedent. They have falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against the petitioners. It is alleged that total 224.28 liters wine is recovered from the bush situated behind the house of co-accused Lalan Rai. The petitioners are named in the F.I.R. The names of the petitioners have transpired in the present case on the basis of disclosure made by the local Choukidar. Except for this, there is no other substantive evidence to suggest the implication of the petitioners in this case.



Nothing incriminating has been recovered from the conscious possession of the petitioners. The petitioners had no knowledge regarding the alleged incident. There is no compliance of Section 100 Cr. P.C. Learned counsel for the petitioners has placed reliance upon the order dated 13.04.2022 passed by the Hon'ble Supreme Court in *Criminal Appeal No. 626 of 2022, arising out of SLP (Crl.) No. 3005 of 2022 (Sweta Kumari-Versus-The State of Bihar)*.

On behalf of the State, it is submitted that the petitioners are named in the F.I.R/ Complaint Case.

Considering the aforesaid facts and circumstances, the petitioners, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand Only) each with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise Act, Jhanjharpur, in connection with Lakhnaur (R.S.O.P.) P.S. Case No. 207



of 2022, corresponding to G.R. No. 851 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sudhir Singh, J)

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