

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14088 of 2024

Arising Out of PS. Case No.-135 Year-2023 Thana- MEDNI CHAUKI District- Lakhisarai

1. Amarjeet Mahto Son of Bhagtu Mahto @ Bhagwat Mahto Resident of Village-Khawa Chandra Tola, P.S.-Mednichowki, Distt.-Lakhisarai
2. Kishori Mahto @ Kishore Mahto Son of Late Biso Mahto Resident of Village-Khawa Chandra Tola, P.S.-Mednichowki, Distt.-Lakhisarai
3. Lalsa Mahto @ Lalit Mahto Son of late kartik Mahto Resident of Village-Khawa Chandra Tola, P.S.-Mednichowki, Distt.-Lakhisarai
4. Chotu Kumar @ Chhotu Kumar Son of Bhagtu Mahto @ Bhagwat Mahto Resident of Village-Khawa Chandra Tola, P.S.-Mednichowki, Distt.-Lakhisarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rabi Bhushan, Adv.

For the Opposite Party/s : Mr.Rabindra Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

ORAL ORDER

2 01-03-2024 Heard learned counsel for the petitioners and learned
APP for the State.

2. The petitioners seek bail in connection with Mednichowki P.S. Case No. 135 of 2023 instituted for the offence punishable under Sections 147, 148, 149, 307, 353, 504, 506 and 34 of the Indian Penal Code, Section 27 of the Arms Act and Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act.

3. As per prosecution case, on secret information Mahua Ghat Basgarha Bind Toli was raided, it was found that



some persons were standing with some container and cylinder. On seeing the police party, they started escaping, who were chased, but they managed to escape from there. On search total 170 liters country made liquor, furnace, cylinder, other implements for manufacturing liquor and mobile phone were recovered from the place of occurrence. During the course of taking away the aforesaid seized articles 10-12 accused persons came over there while hurling abuses and opening fire at raiding party. One of the co-accused Bhutus Kumar apprehended on the spot who disclosed the name of other fled away accused persons.

4. Learned counsel for the petitioners submits that petitioners are innocent and have committed no offence. They have falsely been implicated in this case. Neither the petitioners were apprehended on the spot nor any incriminating articles have been recovered from their conscious possession. Name of the petitioners transpired in this case merely on the basis of confessional statement of apprehended co-accused Bhutus Kumar. Except suspicion and confessional statement of co-accused, there is nothing specific against the petitioners. Both the seizure list witnesses are police personnel which is complete violation of Section 100 of Cr.P.C.



5. Learned APP for the State has vehemently opposed the prayer for bail.

6. From perusal of the F.I.R., seizure list and impugned order dated 04.01.2024, it appears that petitioners were not arrested on the spot. Name of the petitioners surfaced from the confessional statement of apprehended co-accused Bhutus Kumar. Nothing has been recovered from the possession of the petitioners. Petitioners No. 1, 2 and 3 are in judicial custody since 11.12.2023 whereas petitioner no. 4 is languishing in judicial custody since 04.12.2023, accordingly the prayer for bail of the petitioner is allowed. Let the petitioners above named be released on bail ***after framing of charge*** on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-V-cum-Exclusive Special Court No.2, Excise Act, Lakhisarai in connection with Mednichowki P.S. Case No.135 of 2023.

7. The trial Court is directed to conclude the proceeding of framing of charge according to law within a period of 15 (fifteen) days from the date of receipt of a copy of this order. However, it is made clear that ***if the charge-sheet has not been submitted*** then the petitioners shall be released on



bail on above conditions and they shall be present physically on
each and every date before the Trial Court till conclusion of the
proceeding of framing of charge.

(Ramesh Chand Malviya, J)

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