

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33354 of 2024

Arising Out of PS. Case No.-98 Year-2024 Thana- KHARHAGPUR District- Munger

1. Sharban Paswan @ Sharawan Kumar Paswan S/O Bindeshri @ Banwari Paswan
2. Damku Murmur @ Mangal Hansda S/O Kuleshwar Murmur @ Mohan Lal Hansda
3. Bhurka Murmur @ Bhuto Murmu S/O Bishunth Murmur @ Bishwanath Murmur @ Vishwanath Murmu
4. Basia Murmur @ Basudeo Kishku @ Bashudev Kishu S/O Ganesh Murmur @ Ganesh Kisku
All Resident Of Village-Dariapur , P.O.- Prasando, P.S.- Haveli Kharagpur,
Dist- Munger

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shashi Saurabh, Advocate

For the Opposite Party/s : Mr. Rajiv Nayan, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 09-05-2024 1. Heard learned counsel for the petitioners as well as
learned APP for the State.

2. The petitioners seek bail in anticipation of their arrest in a case registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Amendment Act, 2018 in connection with Kharagpur P.S. Case No.98 of 2024.

3. The learned counsel submits that petitioner no.1, 2 and 3 are persons with clean antecedent and petitioner no.4 has antecedent of one case and allegation is of total recovery of 150



liters of liquor from the house of the petitioners as detailed in the FIR.

4. It is next submitted that petitioners were not arrested from the spot as such nothing was recovered from their conscious possession and after amendment in the Excise Act in the year 2018 the concept of deemed possession and presumed offender has been done away with. It is also submitted that the house in question is a joint family property as such it cannot be alleged with certainty that it was the petitioners who had kept the liquor in the house or the liquor kept in the house was within the knowledge of the petitioners. It is next submitted that they came to be implicated at the instance of local person, but then it absolutely does not stand to reason that a local person was aware of the involvement of the petitioners in the occurrence then why he did not inform the police prior to institution of the instant FIR, which cast an aspersion on the case of the prosecution.

5. The learned APP for the State opposes the anticipatory bail application.

6. Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned Court below



within a period of six weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs.5000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge Excise Court Ist, Munger in connection with Kharagpur P.S. Case No.98 of 2024, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

7. However, the learned trial court before accepting the bail bonds of the petitioners shall verify the criminal antecedent of the petitioners and in the event, if it is found that petitioner no.1,2 and 3 has antecedent of even one case and petitioner no.4 has antecedent of more than one case, in that event, the present anticipatory bail order shall not be given effect to.

8. The application stands allowed.

(Satyavrat Verma, J)

Prakash Narayan

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