

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38666 of 2024

Arising Out of PS. Case No.-41 Year-2024 Thana- KURSAILA District- Katihar

-
1. Sanjeet Mahaldar, Son of Boso Mahaldar, Resident of Balthi Maheshpur, P.S. - Kursela, District - Katihar
 2. Gaurav Kumar Mahaldar, Son of Sanjeet Mahaldar, Resident of Balthi Maheshpur, P.S. - Kursela, District - Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Singh, Advocate
For the Opposite Party/s : Mr. Mithlesh Kumar Khare, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 29-05-2024 Heard learned counsel appearing on behalf of the
petitioners and the learned APP for the State.

2. At the outset, learned counsel for the petitioners submits across the Board that during the pendency of the present application, petitioner no.1, namely, Sanjeet Mahaldar, has been arrested and, as such, he seeks permission to withdraw the application on his behalf.

3. Permission is accorded.

4. The petitioner no.2 is apprehending his arrest in connection with Kursela P.S. Case No. 41 of 2024 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2018.



5. In course of patrolling, the police on secret information raided a hut, situated in Balthi Maheshpur village. It is further alleged that in course of raid the police saw that two persons, who were carrying plastic gallon, after noticing the police party fled away, after leaving the plastic gallon. The village *Chaukidar* disclosed the name of the fleeing person, as petitioner and one another. On search, total 60 litres of country made liquor was recovered.

6. Learned counsel for the petitioner contended that save and except the disclosure made by the village *Chaukidar*, there is no material suggesting the complicity of the petitioner in the present crime. Moreover, the hut, in question, neither belongs to the petitioner nor the petitioner has any concern with the illicit liquor. Learned counsel for the petitioner also drew the attention of this Court to the seizure list and submitted at the bar that surprisingly the *Chuakidar*, who identified the petitioner, has neither been made witness to the seizure nor his signature has been obtained on the F.I.R. It is lastly contended that the petitioner is a man of fair antecedent and he undertakes that he will fully cooperate in the investigation or in the proceeding of the court.

7. On the other hand, learned APP for the State



opposes the bail application.

8. Regard being had to the submissions made on behalf of the parties and considering the fact that the alleged recovery has been made from an open place, which is easily accessible to all, coupled with the fair antecedent of the petitioner and other infirmities shown in the search and seizure, let the petitioner no.2, named above, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge, Exclusive Excise Court-II, Katihar in connection with Kursela P.S. Case No. 41 of 2024, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Harish Kumar, J)

uday/-

U		T	
---	--	---	--

