

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38774 of 2024

Arising Out of PS. Case No.-177 Year-2024 Thana- WAJIRGANJ District- Gaya

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1. Chandan Kumar S/O Kapil Chauhan R/O Village- Ukhara (BADHI-BIGHA), P.S- Wazirganj, Distt.- Gaya.
 2. Dharamdev Kumar @ Bablu Kumar Mamu @ Bablu Kumar @ Bablu @ Dharmendra Kumar @ Mamu S/O Somar Mahto R/O Village- Kenar, P.S- Wazirganj, Distt.- Gaya.
 3. Kapil Chauhan S/O Dudhnath Chauhan R/O Village- Ukhara (BADHI-BIGHA), P.S- Wazirganj, Distt.- Gaya.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Onkar Nath, Advocate

For the Opposite Party/s : Md. Mushtaque Alam, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 26-06-2024 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

02. In the present case, the petitioners are apprehending their arrest in connection with Wazirganj P.S. Case No. 177 of 2024, registered on 21.03.2024, for the alleged offence under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

03. As per prosecution case, police received secret information about petitioner no. 3 Kapil Chauhan keeping foreign liquor in his house. A raid was conducted and from a place adjacent to the house of the petitioner no. 3, a sack containing 70.5 liters of foreign liquor was dug out. On further query, police came



to know about the petitioner nos. 1 and 2, who were also involved in bringing the liquor from Jharkhand and selling it.

04. Learned counsel for the petitioners submits that petitioners are innocent and have been falsely implicated in this case. From the FIR, it is apparent that recovery of illicit liquor has been made from a bamboo orchard and not from the house of the petitioners, who have no concern either with the seized liquor or the place from where the recovery has been made. No recovery has been made from the person or possession of these petitioners except for the allegation of their involvement in the alleged offence. Learned counsel further submits that from the same facts, another FIR bearing Wazirganj P.S. Case No. 174 of 2024 has been registered showing recovery of 51.750 liters of India made foreign liquor from the same place. Learned counsel further submits that first recovery has been shown in the morning and second recovery in the evening and except for quantity of the liquor, there is no change in the contents of the FIR. Learned counsel further submits that petitioners are having criminal antecedent of aforementioned case only, which shows the high handedness of the police.

05. Learned A.P.P. for the State opposes the prayer for anticipatory bail. Learned APP submits that recovery of 70.5 liters of India made foreign liquor was made near the house of the petitioners.



06. Having regard to the facts and circumstances and submission made on behalf of the parties and considering the fact that no recovery has been shown from persons or possession of these petitioners and further considering possibility of false implication, let the petitioners above named, in the event of their arrest or surrender before the court concerned within a period of eight weeks from today, be released on 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 learned Exclusive Special Excise Court No.-V, Gaya in connection with Wazirganj P.S. Case No. 177 of 2024, subject to the condition laid down under Section 438(2) of the Code of Criminal Procedure and other following conditions:

- (i) One of the bailors will be a close relative of the petitioners.
- (ii) The petitioners will remain present on each and every date fixed by the court below, if so required by the learned trial court.

(Arun Kumar Jha, J)

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