

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44350 of 2024

Arising Out of PS. Case No.-605 Year-2023 Thana- KESARIA District- East Champaran

1. Nagina Sahani S/O Late Ashrai Sahani R/O Village-Mohammadpur Tola
Dumma,P.S.-Kesariya, Distt-East Champaran
2. Munnilal Sahani S/O Prabhu Sahani R/O Village-Mohammadpur Tola
Dumma,P.S.-Kesariya, Distt-East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate

For the Opposite Party/s : Mr. Narsingh Tanti, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 24-07-2024 Heard learned counsel for the petitioners and learned
APP for the State.

2. In the present case, the petitioners are apprehending their arrest in connection with Kesariya P.S. Case No.605 of 2023, registered on 22.12.2023 for the offences under Section 30 (a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, police received secret information about co-accused Sunil Sahani bringing a consignment of illicit liquor to his hut for selling it. A raid was conducted and three persons fled away from the spot and two of them were identified as petitioners and the third person was said to be co-accused Sunil Sahani. From the hut, recovery of 74.700



liters of India made foreign liquor was made. Apart from the recovery of liquor, a passbook and Aadhar card in the name of co-accused Munnilal Sahani were also recovered.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. The petitioners have not been apprehended from the spot and nothing incriminating has been recovered from their person or possession. The petitioners have been made accused on saying of the villagers but the manner of identification is not believable. Learned counsel further submits that the specific allegation, even in secret information is against co-accused Sunil Sahani for bringing the liquor for selling the same and being family members, the petitioners might be present in the hut and left the spot on seeing the police party but the same does not make them accused for offence under Excise Act. Learned counsel further submits that the recovery of the documents of petitioner No.2, Munnilal Sahani may be for a number of reasons and the recovery of these documents does not mean that the said petitioner was involved in the trade of illicit liquor. The petitioners are having no criminal antecedent.

5. Learned APP opposes the submission made on behalf of the petitioners. Learned APP submits that the recovery



of documents of petitioner No.2 was made from the spot and there is no plausible explanation.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the clean antecedent of the petitioners and further considering the fact that no recovery of any incriminating article was made from their person or possession and also considering the 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 bonds 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.-3, Motihari, East Champaran/concerned court in connection with Kesariya P.S. Case No.605 of 2023, subject to the condition as 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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