

Arising Out of PS. Case No.-103 Year-2024 Thana- BALIYA District- Begusarai

- Petitioner/s

The State of Bihar

... .. Opposite Party/s

For the Petitioner/s : Mr. Arjun Prasad, Advocate
For the Opposite Party/s : Mr. Gauri Shankar Gupta, APP

3 20-09-2024 1. Heard learned counsel for the petitioners and
learned APP for the State.

2. Petitioners apprehend their arrest in connection with Ballia P.S. Case No. 103 of 2024 dated 25.03.2024 registered for the offence punishable under Section 30(a) of Bihar Prohibition and Excise Act.

3. As per the prosecution story, Mahamaya Prasad, ASI, Ballia (informant) stated that on 24.03.2024 at about 15:50 P.M. he alongwith his associates, acting upon an information,



raided at village Chhoti Ballia Shakti Chaura, Maulanachak, Miskar Tola and Bari Ballia Ward No. 3/4 and from the house of Krishna Choudhary (petitioner no. 4) recovered about 150 litres of *toddy*, about 300 litres of *toddy* was recovered from the house of petitioner no.2 and 3 and about 100 litres of intoxicated material was recovered from the house of petitioner no.1.

4. Mr. Arjun Prasad, learned counsel appearing for the petitioners submits that the instant matter relates to the recovery of *toddy* and as per allegation from the joint houses of the petitioners the alleged materials were recovered but the same were not recovered from the conscious possession of any of the petitioners. It is further submitted that the petitioners have got no criminal antecedent and two co-accused persons namely, Subodh Chaudhary and Rohit Choudhary @ Rohit Chaudhary have been granted anticipatory bail by this bench and co-ordinate bench of this court vide orders dated 29.08.2024 and 04.09.2024 passed in Cr. Misc. No. 52775 of 2024 and Cr. Misc. No. 55696 of 2024 respectively.

5. Mr. Gauri Shankar Gupta, learned APP appearing for the State has vehemently opposed the bail prayer of the petitioners and submits that the case of these petitioners does not stand on similar footing with the co-accused Subodh



Chaudhary as he took the plea that he was busy in the cremation of his mother at the relevant time of recovery and there is no seizure list in respect of the alleged intoxicated material which is said to have been recovered from the house of Rohit Choudhary.

6. Heard both the sides and perused the FIR and seizure lists. As per allegation from the joint house of the petitioners Aitwari Choudhary and Vijay Choudhary 300 litres of fermented *toddy* was recovered and from the house of petitioner Krishna Choudhary 150 litres of fermented *toddy* was recovered and from the house of Santosh Choudhary 100 litres of fermented *toddy* was recovered and as per the seizure memo the videography of the search and seizure process was also made. These materials are sufficient to attract the alleged offence of the Excise Act, so in view of the provision of Section 76(2) of the Excise Act, the prayer of the present petitioners is not maintainable, so their prayer stands rejected.

7. However, considering the fair and clean antecedent of the petitioners, they are given the liberty to surrender before the court below within three weeks from today. If they avail the said liberty, then the learned trial court shall decide their regular bail prayer at the earliest without being prejudiced with this



order.

(Shailendra Singh, J)

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