

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61178 of 2024

Arising Out of PS. Case No.-106 Year-2019 Thana- NAUTAN District- West Champaran

1. Naresh Manjhi, Son of Sigasan Manjhi @ Singasan Manjhi, R/o Village-
Khaira Tola, P.S.- Nautan, District -West Champaran
2. Motilal Manjhi, Son of Mahesh Manjhi, R/o Village- Khaira Tola, P.S.-
Nautan, District -West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sarvesh Kashyap, Adv.

For the Opposite Party/s : Mr. Sanjay Kumar Sharma, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 18-09-2024 1. Heard Mr. Sarvesh Kashyap, learned counsel for
the petitioner and Mr. Sanjay Kumar Sharma, learned APP for the
State.

2. The petitioners apprehend their arrest in
connection with Nautan P.S. Case No. 106 of 2019 dated
20.03.2019 registered for the offences punishable under Sections
272 and 273 read with Section 34 of the Indian Penal Code and
Sections 30(a), 38(1) and 41(1) of the Bihar Prohibition & Excise
Act.

3. Learned counsel appearing for the petitioners
submits that the instant matter relates to the recovery of illicit
country made liquor of 1 litre from the house of petitioner No. 1
while 700 ml from the house of the petitioner No. 2 but in fact, the
prosecution case as alleged in the FIR is totally false and



concocted and no such occurrence as alleged in the FIR had taken place and the petitioners were neither present at the place of occurrence nor apprehended there. Learned counsel further submits that the name of the petitioners surfaced in the present case on the basis of disclosure made by the co-villagers but surprisingly, no co-villager has been made the seizure list witness and even the witnesses of the seizure list are not the resident of the place of occurrence, as such, the police violated the provisions of section 100 of Cr.P.C. while preparing the seizure list. Learned counsel further submits that the liquor recovered from the petitioners' house as alleged in the FIR was, in fact, recovered from an open place but due to high handedness of the police, small quantity of the liquor was shown to have been recovered from the respective houses of the petitioners and the petitioners have fair and clean antecedent and they are in deep apprehension of their arrest.

4. Learned APP for the State has opposed the prayer for bail.

5. Heard both the sides and perused the FIR and the seizure lists. As per the allegation, from the house of petitioner No. 1, one litre of illicit country made liquor is said to have been recovered and from the house of petitioner No. 2, 700 ml of illicit country made liquor is said to have been recovered. Both the



petitioners have taken the pleas that they have been falsely implicated in this case as the copy of the seizure memo was not provided to any member of their family and further, the place of recovery has been disclosed in a vague manner in the seizure memo and two persons, who do not belong to the village of the petitioners, were made witnesses of the seizure lists. Learned counsel has further taken the plea that the alleged offences of the Excise Act even *prima facie* do not attract against them, so, the prayer of the petitioners is maintainable and both the petitioners have fair and clean antecedent. Considering these facts as well as above submissions, this Court finds that both the petitioners have made out a good case for grant of anticipatory bail. Accordingly, let both the petitioners named-above, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the Court concerned in connection with Nautan P.S. Case No. 106 of 2019, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Shailendra Singh, J)

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