

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69537 of 2024

Arising Out of PS. Case No.-40 Year-2024 Thana- Benibad District- Muzaffarpur

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1. Akhemul Islam Son of Khadimul Islam Resident of Ghatpar, Surugan, P.S. - Phalakala, District - Ahpur Jalparpuri, West Bengal
 2. Mominul Islam Son of Ijauddin Resident of Village - Karaibari, P.S. - Phalakala, District - Ahpur Jalparpuri, West Bengal

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Alok Kumar Alok, Advocate
	:	Mr. Vivek Kumar Pandey, Advocate
For the State	:	Md. Shakir Ahmad, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 05-10-2024 Heard the parties.

2. The petitioners are in custody in connection with Benibad P.S. Case No. 40 of 2024 for the offence punishable under sections 317(5) of Bharatiya Nyaya Sanhita and 30(a) of Bihar Prohibition and Excise Act, lodged on 19.07.2024 by the informant, Sudhir Kumar Jha.

3. As per the prosecution story, a Pick-Up van was intercepted and there is recovery of 554.400 liters of foreign liquor as the petitioner was occupying the vehicle and failed to provide any details, arrested on the spot. Accordingly, the F.I.R.

4. Learned counsel for the petitioner submits that



they are driver and cleaner of the vehicle, were carrying the goods little realizing that in between, foreign liquor has been kept, have already suffered by being in custody since 19.07.2024 (paragraph no.14 of the petition) and further do not have criminal antecedent. Further, the submission is that without accepting the allegation and/or the outcome of the present petition in view of the fact that the petitioners on their own would like to contribute Rs.10,000/- each totaling Rs.20,000/- to the District Legal Services Authority, Muzaffarpur (exclusively for the purchase of journals) through Demand Draft issued by the local State Bank of India and the receipt has to be submitted before the 'NAZARAT' of concerned Court.

5. Learned APP opposed the prayer submitting that they being the driver and cleaner cannot exonerate themselves from the recovery/seizure.

6. Taking into account the submissions as also the fact that nothing has been recovered from his conscious possession rather from the vehicle and remained in custody since 19.07.2024 and do not have criminal antecedent as undertaken by the learned counsel for the petitioner that they will be diligently appearing in trial, this Court is inclined to



extend him the privilege of bail subject to payment of Rs.10,000/-each totaling Rs. 20,000/- as undertaken by the learned counsel for the petitioner to be paid to the District Legal Services Authority, Muzaffarpur (exclusively for the purchase of journals) by Demand Draft of local State Bank of India and the receipt has to be submitted to the Trial Court.

7. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Exclusive Special Judge Excise III, Muzaffarpur, in connection with Benibad P.S. Case No. 40 of 2024 subject to the following conditions:

(i) one of the bailor should be the family member/relative of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for six months to mark his attendance;



(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

(Rajiv Roy, J)

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