

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69454 of 2024

Arising Out of PS. Case No.-59 Year-2024 Thana- Dhobaha District- Bhojpur

1. Pramod Prasad Son of Birbal Prasad Resident of Village- Basanpur, P.S.- Dhobha, District- Bhojpur
2. Saroj Paswan Son of Sri Shawali Paswan @ Swali Ram Resident of Village- Belghat, P.S.- Ara Mufassil, District- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raju Kumar Singh, Advocate
For the Opposite Party/s : Mr. Jitendra Kumar Singh, 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 Dhobahan P.S. Case No. 59 of 2024 for the offence punishable under Sections 30(a) of the Excise Act lodged on 28.07.2024 by the informant, Abhishek Kumar.

3. As per the prosecution story, the informant alleged that upon secret information, reached the alleged place, the accused tried to escape but apprehended and from the motorcycle, 110 liters of country-made liquor recovered/seized. Accordingly, the FIR.

4. Learned counsel for the petitioners submits that neither of the two petitioners own the motorcycle from which the alleged recovery/seizure has been made. They were passers-by and only because they happened to be near the motorcycle,



apprehended, they do not have any criminal antecedent and are in custody since 29.07.2024 (paragraph-10 of the petition).

5. Learned APP, Mr. Jitendra Kumar Singh opposes the prayer for bail submitting that the petitioners were there alongwith the motorcycle from which the alleged recovery has been made.

6. Admittedly, the recovery is from the motorcycle and both this petitioners are not the owner of the motorcycle. In view of the said categorical statement that the motorcycle does not belong to either of them, they are in custody since 29.07.2024 and do not have any criminal antecedent, this Court is inclined to extend them the privilege of bail with conditions.

7. However, if it is found that the motorcycle belongs to either of the two petitioners, the bail application of the said accused/petitioner shall become infructuous.

8. Let the petitioners be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned Exclusive Special Judge, Excise Court No. I, Bhojpur at Ara, in connection with Dhobahan P.S. Case No. 59 of 2024 subject to the following conditions:

(i) one of the bailor should be the family



member/relative of the petitioners who shall provide official document to show his/her bona fide;

(ii) the petitioners 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 their bail bond by the Trial Court itself;

(iii) the petitioners 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;

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

9. Having disposed of the bail application, an important fact which has repeatedly been taken note of by this Court is that in the bail applications, there is no uniformity of paragraphs in which the judicial custody of the accused is incorporated. Some incorporate it in paragraph-1 while others in paragraph-4. Still others incorporate it in paragraph-10 or for that matter, 13, 17, 19 and 21 and so on.

10. In the circumstances, the Court has to search for the paragraph showing judicial custody and assuming that even



if thirty seconds time is taken in one file to check the judicial custody and the Court goes through hundred of files, almost fifty minutes of the Court hours are wasted on that. If on the special day, twenty Benches are taking up the bail matters, thousands of minutes goes waste. In other words, the judicial hours of three Benches goes waste searching for the paragraph showing judicial custody of the petitioner.

11. This Court has repeatedly requested the learned counsels and the copy of the said order was communicated last year to all the Associations of the High Court to decide on their own and come to a single paragraph in which the judicial custody could be incorporated. However, even after the passage of more than a year, the learned Advocates casually incorporate the judicial custody in any of the paragraph of the petition wherever they find deem it fit and proper. As observed above, there are some other cases also in which the judicial custody is not even been incorporated and in that case, the Court has to search through the order of the learned Sessions Judge to know since when the petitioner is in custody.

12. This Court ascertained from the office whether any instruction is/are there from earlier and the report is/are as follows:



C.M. to Hon’ble Court No. 208

In the light of your query dt. 05-10-2024, it is humbly submitted that perhaps there is no any such judicial order/instructions for fixed paragraph available in record in which “Judicial Custody” details is to be written in Cr. Misc. files submitted.

*Umesh Kumar
05-10-2024
A.R.-cum-S.O. I/C
Cr. Stamp Reporting Section*

13. In that background, to maintain uniformity as usual, as the criminal antecedent is incorporated in paragraph-3 of the petition, henceforth, from 1st of November, 2024, the petitioner/petitioners is/are required to incorporate the judicial custody period in paragraph-4 (four) of the petition.

14. Failure to do so, the Office shall put it under the defective category. The Office to take note of this order and do the needful effective 01.11.2024.

(Rajiv Roy, J)

Adnan/-

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