

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69966 of 2023

Arising Out of PS. Case No.-110 Year-2021 Thana- AWTARNAGAR District- Saran

1. Uma Rai @OM Yadav S/O Shiv Bahadur Rai Village- Nayatola Farajee, Ps. Awatar Nagar, Dist. Saran at Chapra
2. Raja Ray @ Raja Kumar Rai S/O Shiv Bahadur Rai Village- Nayatola Farajee, Ps. Awatar Nagar, Dist. Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Radha Mohan Singh, Advocate

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

- 4 29-02-2024 1. Heard learned counsel appearing on behalf of the petitioners and learned Additional Public Prosecutor appearing on behalf of the State.
2. The both accused/petitioners are named in F.I.R. and apprehending their arrest in connection with Awatar Nagar P.S. Case No. 110 of 2021, registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.
3. As per FIR, 10 litres of illicit liquor was alleged to be recovered from the back side of the house of petitioners.
4. Learned counsel appearing on behalf of the petitioners submitted that the alleged recovery of illicit liquor



was made from the back side of the house of petitioners and as such, it can be safely said that no *prima facie* case under excise act is made out against petitioners, as recovery appears from an open place, accessible by general public, negating possession of petitioners. It is also submitted that seizure list witnesses are Bihar Home Guard Personnel and same not supported by independent witnesses. It is submitted that petitioners are men of clean antecedents.

5. Learned APP opposes the prayer of bail.

6. Considering the aforesaid facts and circumstances, as recovery of illicit liquor not appears to be made from physical possession of petitioners, rather from an open place, accessible by general public, where seizure list also appears not supported by independent witnesses, accordingly, both above named petitioners, in the event of their arrest or surrender before the learned trial Court, within a period of four weeks of the order, are directed to be released on bail furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge-IIInd cum-1st Exclusive Special Judge, Excise, Saran at Chapra/concerned Court, where the case is pending in connection with Awatar Nagar P.S. Case No. 110



of 2021, subject to the conditions as laid down under Section
438(2) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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