

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76057 of 2024

Arising Out of PS. Case No.-175 Year-2024 Thana- Excise P.S. District- Sheohar

1.

Rupesh Kumar @ Golu @ Golu Upadhyay Son of Subodh Upadhyay @ Subodh Upadhya R/O-Village- Shahpur , ward no 07, P.S.- Sheohar, District- Sheohar.
2.

Chandan Kumar Son of Madhurendra Tiwari R/O-Village- Shahpur , ward no 07, P.S.- Sheohar, District- Sheohar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Advocate
For the Opposite Party/s : Mr. Sanjay Kumar Sharma, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 23-10-2024 Heard learned counsel for the petitioners and learned
APP for the State.

02. In the present case, the petitioners seek bail in connection with Sheohar Excise Prohibition P.S. Case No. 175 of 2024, registered on 12.07.2024, for the alleged offences under Sections 30(a), 32(3) of the Bihar Prohibition and Excise Act, 2016.

03. As per prosecution case, the police received secret information about a car loaded with illicit liquor. A raid was conducted and three persons were found transferring illicit liquor from the said car to motorcycles. On search of the vehicle, recovery of 225 liters of *Nepali* country made liquor



was made. Three persons were apprehended from the spot and the petitioners are amongst the apprehended person. The petitioner no. 1 admitted the ownership of the car and one of the motorcycles and petitioner no. 2 stated that he was helping the petitioner no. 1 in his illegal activities.

04. Learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. The petitioners have no connection with the alleged recovery and they are neither the owners of the car nor the motorcycles. The alleged confession of the petitioner no.1 about being the owner of the vehicles is false. There is no compliance of Section 103 of the BNSS. The petitioners are in custody since 12.07.2024. Learned counsel further submits that petitioner no. 2 is having clean antecedent whereas petitioner no. 1 is accused in altogether 14 cases and he is on bail in all such cases. Under highhandedness, the police falsely implicated the petitioner no.1 in a number of cases of serious nature.

05. Learned APP for the State vehemently opposes the prayer for bail. Learned APP submits that petitioner no. 1 appears to be a habitual offender and he is accused in a number of cases of different nature.

06. Having regard to the facts and circumstances and



submission made on behalf of the parties and considering the claim of petitioner no.1 about not having any concern with the vehicle from which recovery has been shown and further considering the vague nature of allegation against petitioner no. 2 and also considering period of custody of the petitioners, the petitioners above named are directed to be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, Excise, Sheohar in connection with Sheohar Excise Prohibition P.S. Case No. 175 of 2024, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) The learned trial court would verify about the fact that the seized vehicles do not belong to the petitioners or their family members, if so found, the bail bond of the petitioners will not be accepted.
- (ii) One of the bailors will be a close relative of the petitioners.
- (iii) The petitioners will remain present on each and every date fixed by the court below.
- (iv) In case of absence on three consecutive dates



or in violation of the terms of the bail, the bail
bond of the petitioners will be liable to be
cancelled by the court concerned.

(Arun Kumar Jha, J)

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