

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76126 of 2024

Arising Out of PS. Case No.-458 Year-2024 Thana- MALSALAMI District- Patna

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1. Saurav Kumar S/O Tarkeshwar Prasad @ Tarkeshwar Prasad Keshri Resident of Pandariwa Bel Kuan, P.S.- Malsalami, District - Patna.
 2. Prakash Kumar S/O Tarkeshwar Prasad @ Tarkeshwar Prasad Keshri Resident of Pandariwa Bel Kuan, P.S.- Malsalami, District - Patna.
 3. Vikas Kumar @ Vikash Kumar S/o- Rajan Prasad R/o- Bhatti Par, P.S.- Malsalami, District- Patna.
 4. Subodh Kumar S/o- Late Ashok Prasad R/o- Kumaharar, P.S. Agamkuan, District- Patna,

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arvind Kumar Pradhan, Advocate
For the Opposite Party/s : Mr. Arun Kumar, 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 Malsalami P.S. Case No. 458 of 2024, registered on 28.09.2024, for the alleged offences under Sections 30(a) of the Bihar Prohibition and Excise Act, 2016.

03. As per prosecution case, petitioners were apprehended while exporting illicit liquor on *Tempo* and *Scooty*. Further recovery was made from the house of the petitioner nos. 1 and 2. In this manner, recovery of 112.16 liters of India made



foreign liquor was made.

04. Learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. The vehicles from which recovery has been made do not belong to the petitioners. The recovery has been made near the house of the petitioner nos. 1 and 2 and due to their earlier criminal antecedent, they have been made accused in this case. The petitioners are daily wagers used to work as goods carrier in local shops. The provisions of Section 103 of BNSS has not been complied with and no independent witness has been joined in the alleged search and seizure. The petitioners are in custody since 29.09.2024. The petitioner nos. 1 and 2 are having antecedent of one case each whereas petitioner nos. 3 and 4 are having clean antecedent.

05. Learned APP for the State opposes the prayer for bail.

06. Having regard to the facts and circumstances and submission made on behalf of the parties and considering the the fact that the vehicles from which recovery has been shown do not belong to the petitioners and further considering the 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, Patna City, Patna in connection with Malsalami P.S. Case No. 458 of 2024, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of the petitioners.
- (ii) The petitioners will remain present on each and every date fixed by the court below.
- (iii) 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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