

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81846 of 2024

Arising Out of PS. Case No.-593 Year-2023 Thana- BIHAR District- Nalanda

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1. Mohan Yadav, Son of Late Dilchand Yadav, resident of Village- Raja Kuan, P.S.- Bihar, District- Nalanda
 2. Dhruv @ Deepu, Son of Brijnandan Yadav, resident of Village- Raja Kuan, P.S.- Bihar District- Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raj Kishor Prasad, Advocate

For the Opposite Party/s : Mr. Lakshmi Kant Sharma, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-12-2024 Heard learned Advocate for the petitioners and the learned APP for the State.

2. The petitioners are apprehending their arrest in connection with Bihar P.S. Case No. 593 of 2023 registered for the offences punishable Sections 30(a)/30(c) of the Bihar Prohibition and Excise Act, 2022.

3. The allegation against the petitioners is of engaged in manufacturing of illicit liquor. The police on a secret information conducted raid and in course of search, from the barren land of one Raja Yadav, some utensils used for manufacturing of illicit liquor were recovered. It is also alleged that 15 litres of country made *Chulai* liquor was also recovered



from a gallon. However, noticing the police party, the persons, who were present there, succeeded in fleeing away, whose names were disclosed by the villagers.

4. Learned Advocate for the petitioners contended that save and except the disclosure made by the villagers, there is no other material suggesting the complicity of the petitioners in the crime. Admittedly, the alleged recovery has been made from a barren land of one Raja Yadav, with whom the petitioners have no concern. It is further contended that petitioner no.1 bears no criminal antecedent, whereas petitioner no.2 bears three criminal antecedents, as has been disclosed in para. 3 of the bail application, however, he is on bail in all the three cases. It is next contended that there are various other infirmities in the search and seizure, moreover, there is no recovery from the conscious or constructive possession of the petitioners and, as such the bar provided under Section 76(2) of the Bihar Prohibition and Excise Act is concerned, the same is not attracted.

5. On the other hand, learned APP for the State opposes the bail application and submits that so far the petitioner no.2 is concerned, he bears three criminal antecedents over his head.



6. Regard being had to the submissions made on behalf of the parties and the fact that there is no recovery either from the conscious or constructive possession of the petitioners, coupled with the infirmities in the search and seizure, let the petitioners, named above, in the event of their arrest or surrender before the court below within four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned 5th Additional Sessions Judge-cum-Special Judge (Excise), Nalanda at Bihar Sharif in connection with Bihar P.S. Case No. 593 of 2023, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. with the further condition that one of the bailors shall be the own/close relative of the petitioners.

(Harish Kumar, J)

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