

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80755 of 2023

Arising Out of PS. Case No.-212 Year-2023 Thana- RAHIKA District- Madhubani

1. Asif Abbasi Son of Sher Mohammad R/O Village- Gulzar Maszid Ke Pass Yamuna Nagar, Ward No. 36, P.S.- Kharkhoda, District- Merath State- Uttar Pradesh.
2. Samir Khan @ Sameer Khan Son of Shaukin R/O Village- Smar Garden, Ward No.75, P.S.- Kiyashigate, District- Merath, State- Uttar Pradesh.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ratanakar Jha
For the Opposite Party/s : Mr.Umesh Lal Verma

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 24-01-2024 Heard learned counsel for the petitioners and
learned A.P.P. for the State.

2. The petitioners seek bail in connection with G.R. No.1411/2023 arising out of Rahika P.S. Case No. 212/2023 registered for the offences punishable under Sections 272, 273, 420, 467, 468, 471 and 120B of the Indian Penal Code and Sections 30(a), 36, 38(1), 41(1) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. As per prosecution case, there was alleged recovery of 5584.6 liters illicit liquor from the truck in question. Petitioner no.1 was alleged to be driver and petitioner no.2 was alleged to be co-driver of the said truck in question and both



were apprehended on the spot.

4. Learned counsel for the petitioners submits that petitioners are innocent and have falsely been implicated in this case local politics. Nothing has been recovered from the conscious possession of the petitioners. The petitioners are languishing in custody since 22.09.2023 and bear no criminal antecedent. He further submits that the petitioners are not the owner of the alleged vehicle in question. Petitioner no.1 is merely a driver and petitioner no.2 is a co-driver of the said truck and have no knowledge regarding the alleged liquor that has been kept in the said vehicle. The petitioners have to follow the instruction of his owner to earn the livelihood. He further submits that the seizure list has not been prepared as per the law. He orally submits that charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence.

5. The learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioners.

6. Considering the facts and circumstances of the case, period of custody and keeping in view clean antecedent of petitioners, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the



petitioners above named 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 the learned Additional Sessions Judge-II cum Special Judge, Excise Act, Madhubani in connection with G.R. No.1411/2023 arising out of Rahika P.S. Case No. 212/2023, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioners will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial Court itself.

(iii) If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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