

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83579 of 2024

Arising Out of PS. Case No.-254 Year-2024 Thana- BARAUNI District- Begusarai

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1. Gautam Kumar, Son of Manoj Sah, Resident of Village- Papraur, Ward no. 1, P.S.- Barauni, Distt.- Begusarai
 2. Raushan Sah @ Raushan Kumar, Son of Manoj Sah, Resident of Village- Papraur, Ward no. 1, P.S.- Barauni, Distt.- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar Sinha, Adv.

For the Opposite Party/s : Mr. Mohammad Sufyan, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 11-12-2024 Heard Mr. Anil Kumar Sinha, learned counsel
appearing for the petitioners and Mr. Mohammad Sufyan,
learned APP appearing for the State.

2. The petitioners apprehend their arrest in connection with Barauni P.S. Case No. 254/2024 dated 07.10.2024 registered for the offence punishable under Section 30(a) of the Bihar Prohibition & Excise Act.

3. As per prosecution story, the informant acting on a secret information, on 06.10.2024 at about 5:00 P.M., reached at the alleged place and on seeing police party, four persons started fleeing away and among them, two were identified as Gautam Kumar (petitioner No. 1) and Roshan Sah (petitioner No. 2) and from the alleged place, five litres of country-made



liquor was recovered from a bush behind the house of the petitioners.

4. The main submissions advanced by learned counsel appearing for the petitioners are that admittedly the alleged seized five litres country-made liquor was recovered from a bush behind the house of the petitioners and the said place of recovery is accessible to everyone and the petitioners have been made accused mainly on the basis of suspicion and disclosure made by the local *Chowkidaar*. It is further submitted that though there is criminal antecedent of three cases against the petitioners but all of them relate to similar type of allegation.

5. On the contrary, learned APP for the State has opposed the prayer of the petitioners and submits that against the petitioners, there are three criminal antecedents of similar nature of offence.

6. Heard both the sides and perused the FIR. Though the instant matter relates to five litres of country-made liquor which is alleged to have been recovered from a bush behind the house of the petitioners but considering the past history of the petitioners which shows that they have remained involved in three other cases of similar nature of offence, and also, the fact that on seeing the police party four accused persons fled away, among them, two were the petitioners, who were identified by



the local *Chawkidar* and further, the investigation is pending against them, in view of these circumstances, this Court is not persuaded to form the opinion that the alleged offence does not even *prima facie* attract against the petitioners, so, in view of provision of section 76(2) of the Bihar Prohibition & Excise Act, this Court finds the prayer of the petitioners to be not maintainable, hence, their prayer stands rejected.

(Shailendra Singh, J)

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