

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85705 of 2023

Arising Out of PS. Case No.-398 Year-2023 Thana- PHULWARIYA District- Gopalganj

1. PANKAJ KUMAR SON OF HARI RAI RESIDENT OF VILLAGE - BASDEOPATTI, P.S. - SARAIYA, DISTRICT - MUZAFFARPUR
2. ABHINASH KUMAR SON OF LATE ASHOK RAI RESIDENT OF VILLAGE - JHANSHI CHHAPRA, P.S. - AND DISTRICT - VAISHALI
3. ARBIND KUMAR SON OF RAMESHWAR RAI RESIDENT OF VILLAGE, P.S. AND DISTRICT - VAISHALI

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shivjee Singh, Adv.

For the Opposite Party/s : Mr.Uday Chand Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 22-01-2024 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

1. The petitioners seek bail in connection with Phulwariya P.S. Case No. 398 of 2023 registered for the offences punishable under Sections 30(a) of the Bihar Prohibition and Excise Amendment Act, 2018.

2. As per prosecution case, 18 litre illicit liquor was recovered from Spark car in question and petitioner no. 1 and 2 were apprehended from the said car. Further, 276.480 litre illicit liquor was also recovered from Pick-up van in question which was driven by petitioner no. 3.



3. Learned counsel for the petitioners submits that petitioner no. 1 and 2 were going to his relative on a hired Spark car and after seeing the police during the course of vehicle checking, the driver of the said car fled away and petitioners were apprehended. He further submits that the alleged Spark car does not belongs to the petitioner no. 1 and 2. He further submits that petitioner no. 3 has no concern with the said pick-up van in question. No incriminating article has been recovered from the conscious possession of the petitioners. Petitioners are quite innocent and have committed no offence as alleged against them in F.I.R. and have falsely been implicated in the present case. Petitioners are in custody since 07.11.2023. Petitioner no. 1 and 3 bear no criminal antecedent and petitioner no. 2 bears criminal antecedent of one case in which he is on bail. There is no compliance of Section 100 of Cr.P.C.

4. The learned A.P.P. for the State opposes the prayer for bail of the petitioners.

5. Considering the facts and circumstances of the case, period of custody, 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 bond of Rs. 10,000/- (Rupees Ten Thousand)



each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge II cum Special Judge Excise-I, Gopalganj in connection with Phulwariya P.S. Case No. 398 of 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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