

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3295 of 2024

Arising Out of PS. Case No.-2138 Year-2023 Thana- Excise P.S. District- East Champaran

1. Atul Kumar Son of Late Jitendra Mahto R/o vill - Gurmiya ward no. 05, P.S. - Ghorasahan, Distt. - East Champaran
2. Vikash Kumar Son of Pramod Mahto R/o vill - Gurmiya ward no. 05, P.S. - Ghorasahan, Distt. - East Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Tiwari

For the Opposite Party/s : Mr.Kanhiya Kishor

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 31-01-2024 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners seek bail in connection with Excise P.S. Case No. 2138 of 2023 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Amendment Act, 2016.

3. As per prosecution case, 306 litre country made Nepali liquor was recovered from the car in question which was being driven by the petitioner no. 1. It is alleged that petitioner no. 2 was also found sitting in the said car and both petitioners apprehended on the spot.

4. Learned counsel for the petitioners submits that



petitioners are quite innocent and have not committed any offence as alleged in the FIR. He further submits that petitioners are not owner of the vehicle in question. Petitioner no. 1 is merely driver of the said vehicle and he has to follow the instruction of his owner to earn the livelihood and he has no knowledge regarding the alleged liquor that has been kept in the vehicle in question. Petitioner no. 2 being passenger has nothing to do with the alleged recovery of liquor. No incriminating article has been recovered from conscious possession of the petitioners. Petitioners have been apprehended on the spot on the basis of suspicion. Petitioners are in custody since 04.11.2023 and bear no criminal antecedent. Seizure list has not been prepared as per law.

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

6. Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of the 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 bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned



Special Judge, Excise Court No. 2, East Champaran, Motihari in connection with Excise P.S. Case No. 2138 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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