

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2434 of 2024

Arising Out of PS. Case No.-209 Year-2023 Thana- KALUAHI District- Madhubani

1. Shyam Mukhiya Son of Banbari Mukhiya @ Banbali Mukhiya resident of village- Belahi, Manga tol, p.s.- Kaluahi, District- Madhubani
2. Birender mukhiya Son of Banbari Mukhiya @ Banbali Mukhiya Resident of Village- Belahi Manga tol, P.s.- Kaluahi, District - Madhubani,

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar Pandey

For the Opposite Party/s : Mr.Dilip Kumar No. 1

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 31-01-2024 Heard Mr. Manoj Kumar Pandey, learned counsel appearing on behalf of the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners apprehend their arrest in connection with Kaluahi P.S. Case No. 209 of 2023, registered for the offences punishable under Sections 272, 273/34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act.

3. Petitioners are alleged to have indulged in trafficking of illicit wine. The police on a secret information conducted raid. However, on noticing the police party, the accused persons succeeded in fleeing away. On search, total 30



litres of illicit wine has been recovered. The local Chowkidar has identified the petitioners.

4. It is submitted on behalf of the petitioners that save and except the disclosure made by the local Chowkidar, there is no material suggesting the complicity of the petitioner in the present crime. Moreover, the alleged recovery has been made near the mango orchard of Raju Jha which is an open place easily accessible to all. He next submits that the place from where recovery has been made does not belong to the petitioner, all the more there are other infirmities in the search and seizure. He submits that so far the petitioner no. 1 is concerned, he has one criminal antecedent over his head, however, petitioner no. 2 has absolutely fair antecedent. Both the petitioners undertake that they will fully cooperate in the investigation and in the proceeding of the court.

5. On the other hand, learned counsel for the State opposed the bail application.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the alleged recovery has been made from an open place and save and except the disclosure made by the local Chowkidar, there is no material, let the petitioners abovenamed be released on bail, in



the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (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 Kaluahi P.S. Case No. 209 of 2023, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioners.

(Harish Kumar, J)

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