

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2840 of 2025

Arising Out of PS. Case No.-435 Year-2024 Thana- Excise P.S. District- Begusarai

1. Laltus kumar @ Raju S/O Chhatis Yadav @ Satish Yadav R/O Vill.- Bahadur Nagar - Kutlupur Diara, P.S- Muffasil, Dist.- Munger
2. Manish Kumar S/O Shailindra Yadav @ Ravindra Yadav @ Shailendra Yadav R/O Vill.- Bahadur Nagar - Kutlupur Diara, P.S- Muffasil, Dist.- Munger.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shubhesh Pandey, Adv.

For the Opposite Party/s : Md. Nazir Ansari, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 15-02-2025 Heard learned counsel for the petitioners and learned APP for the State.

2. The petitioners apprehend their arrest in connection with Excise P.S. Case No. 435 of 2024 registered for the offences punishable under Section 30(a) and 32(3) of the Bihar Prohibition and Excise Amendment Act, 2018.

3. The police on a tip-off trade of illicit wine intercepted Eicher Truck bearing registration no. JH02BQ-5547, however, on noticing the police party, six persons who were seating in the truck tried to flee away; but one of them, namely, Sundaram Kumar was apprehended and other five were succeeded to flee away. It is further alleged that in course of



search, total 1329.840 liters of Indian Made Foreign Liquor was recovered. The apprehended person disclosed the name of the petitioners and others.

4. Learned counsel for the petitioners contended that from the FIR, it is evident that save and except the disclosure made by the apprehended person, there is no material available on record, suggesting complicity of the petitioners nor they were identified by the raiding party. The petitioners have neither any dominion or control over the place from where the alleged illicit liquor was recovered nor they have any concern with the vehicle in question. From the materials available on record, it appears that no recovery has been made from the conscious or constructive possession of the petitioners and, as such, bar provided under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 (for short the 'Act, 2016') is not applicable. It is also the contention of the petitioners that during the course of investigation, no scintilla of admissible evidence has come forward; moreover, the petitioners bear fair antecedent and they undertake that they will fully cooperate in the investigation or proceeding of the Court.

5. On the other hand, learned counsel for the State opposed the bail application and submitted that a huge quantity



of illicit wine was recovered and the name of the petitioners has been disclosed by the apprehended person.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that there is no material suggesting complicity of the petitioners in the crime save and except the disclosure, apart from the fact that nothing has been recovered from the conscious or constructive possession of the petitioners and, as such, the bar provided under Section 76(2) of the Act, 2016 is not attracted, coupled with the fair antecedent of the petitioners, let the above named petitioners, be released on bail, in the event of their arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge Excise-II, Begusarai in connection with Excise P.S. Case No. 435 of 2024, subject to the condition as laid down under Section 438(2) of the Cr.P.C., with further condition that one of the bailors shall be the own/close family members of the petitioners.

(Harish Kumar, J)

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