IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74368 of 2026

CNR No. BRHC011060012026

Arising Out of PS. Case No.-152 Year-2026 Thana- EXCISE ROSERA District- Samastipur

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1. Santosh Kumar S/o Chandradev Mahto @ Chiko Mahto R/o Village - Kaapan, Ward No. 4, PS - Bibhutipur, District - Samastipur
2. Mithun Kumar S/o Mahesh Mahto R/o Village - Boriah, Ward No. 9, P.S - Bibhutipur, District - Samastipur

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Mritunjay Kumar, Advocate
For the Opposite Party/s : Mr. Md. Nazir Ansari, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 28-10-2026 Heard learned Advocate for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners apprehend their arrest in connection with Rosera Excise P.S. Case No. 152 of 2026, registered for the offenses punishable under Section 30(a) of the Bihar Prohibition & Excise Act, 2018 (Amended).

3. Acting on a tip-off regarding transportation of illicit wine through a tractor, the police conducted a raid. However, noticing the police party, the driver of the tractor succeeded in fleeing away by leaving the tractor. In course of search, a total of 540 liters of Indian-made foreign liquor was recovered. The petitioners along with other accused persons have been found

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indulged in such activities.

4. Learned Advocate for the petitioners, referring to the FIR, contended that the petitioner is neither owner of the tractor in question nor has any connection with the illicit wine. Only on account of the past criminal antecedent of petitioner no. 2, his name has been implicated in this case along with petitioner no. 1, who is not carrying any criminal antecedent. The witnesses to the search and seizure are said to be police personnel, besides while carrying out the same, video recording has also not been conducted, and as such, it is argued that there is complete violation of Section 103(4) and Section 105 of the BNSS. Under the aforesaid circumstances, learned Advocate further argued that the statutory prohibition as prescribed under Section 76(2) of the Excise Act would also not be attracted. The petitioners undertake that they will fully cooperate in the proceeding of the Court.

5. On the other hand, learned Advocate for the State vehemently opposed the bail application and submits that the petitioners were found engaged in trafficking of illicit liquor.

6. Considering the rival submissions advanced by learned Advocate for the respective parties and taking note of the fact that there is no cogent material connecting the

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complicity of the petitioners with the subjected vehicle as well as the illicit wine, besides various discrepancies shown while carrying out the search and seizure and the lack of materials attracting the rigors to maintain anticipatory bail, let the petitioners above named 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 Special Judge Excise-II, Samastipur in connection with Rosera Excise P.S. Case No. 152 of 2026, subject to the conditions laid down in Section 482(2) of the Bharatiya Nagrik Suraksha Sanhita, 2023, 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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