

In the court of 1<sup>st</sup>. Addl. Distt.and Sessions Judge, Sheikhpura.

Excise case no.289/2018.  
Sheikhopur sarai p.s.case no.116/2018.

ORDER

26.11.2018. A petition for bail have been filed on behalf of the accused petitioners namely Satish Kumar and Munna Kumar who are in custody since 04.11.2018 in connection with Sheikhopur sarai p.s.case no.116/2018 registered for the offence u/s 272,273,353 of the IPC and 30 (a) (b) of Bihar Prohibition and Excise Act, 2016 pending in this court put up and moved today.

Heard the learned counsel for the petitioners as well as the learned p.p. for the state.

As per F.I.R. the prosecution case in brief is that on dated 03.11.2018 at 14.45 Informant SI Rajesh Kumar received a secret information that in village Nimi Lakhan Pur tola , Monu Kumar Ram was collected wine in his house for selling. On such information the informant along with police force reached the house of Monu Kumar and search was made and in course of search 13 bottle of Royal Stage 375 ml was recovered and his two associates namely Satish Kumar and Munna Kumar was arrested on the spot. Accordingly seizure list was prepared. With this allegation the F.I.R. was lodged against the petitioners.

The learned counsel for the petitioner submitted that the petitioners are innocent and they have falsely been implicated in this case mere on suspicion. The petitioners have no criminal history. The present case has been instituted u/s 272,273,353 of the IPC and 30 (a) (b) of Bihar Excise Act which are not applicable against the petitioners. Nothing has been recovered from the conscious possession of these petitioners but the seized articles be recovered from the possession of Monu Kumar. From perusal of seizure list it appears that the quantity of seized articles is 4.87 liter ( 375 ml x 13 ) English wine. The petitioner is in custody since 04.11.2018. The petitioners are man of means and there is no chance of their absconding. Hence, prayer for bail to the petitioners.

The learned p.p. opposed the prayer of bail and submitted that the petitioners are named in the F.I.R. There is sufficient material in the case record against the petitioners. Hence the petitioners do not deserve bail at all and their prayer for bail may be rejected.

Considering the facts and circumstances of the case and further considering the submission of the learned counsel for the parties and from perusal of record it appears that 4.87 liter Foreign wine was recovered from the house of Monu Kumar and petitioners were involved in the said occurrence and accordingly seizure list was prepared. But from perusal of seizure list it appears that no independent witness was present at the time of recovery. The petitioners are in custody since 04.11.2018. In view of the aforesaid facts and circumstances of the case and the period of custody the petitioners are ordered to be released on bail on furnishing bail bond of rupees 10,000/- with two sureties of the like amount each.

Dictated and corrected by me.

S/d-

1<sup>st</sup>. Addl.Distt.and Sessions Judge.  
Sheikhpura.  
26.11.2018.