

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51828 of 2016

Arising Out of PS.Case No. -286 Year- 2016 Thana -GIRIYAK District- NALANDA
(BIHARSHARIFF)

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1. Gautam Kumar @ Gautam Singh son of Sri Nunu Singh resident of
Village - Markata, P.S. - Giriyak, District - Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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with

Criminal Miscellaneous No.53904 of 2016

Arising Out of PS.Case No. -286 Year- 2016 Thana -GIRIYAK District- NALANDA
(BIHARSHARIFF)

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1. Sailendra Singh son of Bachhu Singh @ Shiv Bachu Singh
2. Ghutar Singh son of Sailendra Singh Both residents of Village -
Markatta, P.S. Giriyak, District Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.51828 of 2016)

For the Petitioner/s : Mr. Ajay Thakur, Advocate
Mr. Shashank Shekhar, Advocate
Mr. Babita Kumari, Advocate

For the Opposite Party/s : Mr. Binod Kumar 2, APP

(In Cr.Misc. No.53904 of 2016)

For the Petitioner/s : Mr. Rama Kant Sharma, Advocate
Mr. Rajesh Kumar, Advocate

For the Opposite Party/s : Smt. Pushpa Sinha

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 28-01-2017 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

The petitioners are apprehending their arrest in a case



registered for the offences punishable under Sections 30/32/37 of the Bihar Excise (Amendment) Act, 2016.

From the poultry farm of co-accused Mangal Singh country made liquor was recovered on 03.10.2016. Allegation is that Mangal Singh was involved in the business of illegal sale of liquor with the help of his brother i.e., petitioner Gautam Kumar @ Gautam Singh, who was cooperating in bringing the liquor from Jharkhand.

Similar allegation is against co-accused Onkar Singh that from his poultry farm also country-made liquor was recovered and his brother petitioner No.1 Shailendra Singh was involved in the business. Petitioner No.2 is son of petitioner No.1.

Both the petitioners have stated on oath that they are separate from their brothers, who are co-accused in this case, and they have no concern with the business of poultry form etc.

Submission is that though anticipatory bail is not maintainable in view of the provisions of Section 76 of the Act. However, in the present facts and circumstances, the offences alleged are itself not made out against the petitioners because the presumption under Section 32 of the Act is not attracted against the petitioners as they are not family members nor the adult



member of the business of the co-accused and their names have been dragged merely on suspicion.

Considering the facts aforesaid, let the petitioners, above named, in the event of their arrest or surrender before the Court below within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Nalanda at Bihar Sharif/Successor Court in connection with Giriyak Police Station Case No.286 of 2016, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Birendra Kumar, J)

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