

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32503 of 2018

Arising Out of PS. Case No.-1123 Year-2017 Thana- SITAMARHI District- Sitamarhi

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1. Shushila Devi, W/o Fekan Sah,
 2. Fekan Sah S/o Ram Bahadur Sah,
Both R/o Vill.- Panapur, P.S.- Riga, District- Sitamarhi.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Virendra Kumar, Adv.

For the Opposite Party/s : Mr. Sri Abhay Kumar – 1, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 13-06-2018 Heard Sri Virendra Kumar, learned counsel for the petitioners and Sri Abhay Kumar, learned Addl. Public Prosecutor.

Two petitioners, apprehending their arrest in Sitamarhi P.S. Case No.1123 of 2017, registered for the offence under Sections 272, 273 of the Indian Penal Code and Section 30(A) of the Bihar Prohibition and Excise Act, 2016, have prayed for grant of bail, in the event of arrest or surrender, primarily on the ground of parity.

Learned counsel for the petitioners submits that one of the co-accused, namely, Naga Sah, almost in similar circumstances, has been granted anticipatory bail by order dated 16.04.2018 passed in Cr.Misc.No.21722 of 2018. It has been



argued that the petitioners also deserve to anticipatory bail in similar circumstances. Learned counsel for the petitioners submits that save and except the fact that the petitioner no.1 is wife of petitioner no.2, there is no other material to connect her in the case.

Learned Addl. Public Prosecutor has opposed the prayer for anticipatory bail.

Besides hearing learned counsel for the parties, I have also examined the material on record. On going through the record, it is evident that in the case, huge quantity of Nepali Soufi wine was shown to be recovered from a newly constructed house of the petitioners, where it was concealed. In the F.I.R. itself, it has been indicated that two accused i.e. petitioner no.2 and one accused Naga Sah were seen fleeing away and the petitioner no.1 has been arrayed as accused as if she was involved in purchasing and selling of the liquor. So far as ground of parity is concerned, the case of petitioner no.2 can be distinguished in view of the fact that in the case, recovery of huge quantity was shown from the premises of the petitioners, whereas accused Naga Sah was shown to be fleeing away. Accordingly, petitioner no.2 is not entitled for grant of anticipatory bail, as has been granted to accused Naga Sah. So



far as petitioner no.1 is concerned, she has been made accused being wife of petitioner no.2 and ,as such,there is no reason to refuse her prayer for grant of anticipatory bail to her.

Accordingly, in the event of her arrest or surrender within six weeks from today, let the petitioner no.1, namely, Shushila Devi be enlarged on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned A.D.J.II-cum- Special Judge, Excise Act, Sitamarhi in connection with Sitamarhi P.S. Case No.1123 of 2017, subject to conditions as laid down in Section 438(2) of the Code of Criminal Procedure.

So far as petitioner no.2, namely, Fekan Sah is concerned, his prayer for anticipatory bail stands rejected with observation that if within six weeks from today, the petitioner no.2 appears before the court below and makes a prayer for regular bail, the learned court below without being prejudiced with this order may examine the same and pass appropriate order in accordance with law preferably on the same day.

(Rakesh Kumar, J)

nawalkrs/-

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