

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.66738 of 2018

Arising Out of PS. Case No.-633 Year-2018 Thana- BHABHUA District- Bhabhua (Kaimur)

1. Bijay Baheliya @ Bijay Baheriya @ Bijay Pasi @ Ghanghoti,
2. Babloo Baheliya
Both are sons of Late Anjani Baheliya,
3. Anil Baheliya @ Anil Pasi,
All are resident of village- Bhabua Ward No. 20, Gawain Muhalla, P.S.-
Bhabua, District- Kaimur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Pathak
For the Opposite Party/s : Smt. Anusuiya Jaiswal

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 01-11-2018 Heard learned counsel for the petitioners and learned
APP for the State.

The petitioners are apprehending their arrest in a case registered under Section 30(A) of the Bihar Prohibition and Excise Act, 2016.

The prosecution case, in short, is that 24.86 liters wine is recovered.

It has been submitted on behalf of the petitioners that the petitioners have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioners. The names of the petitioners have transpired as the alleged recovery is made from the joint houses of the petitioners



where the other family members also reside. Except for this, there is no other substantive evidence to suggest the implication of the petitioners in this case. It is alleged that 24.86 liters wine is recovered from the joint houses respectively of the petitioners. Nothing incriminating has been recovered from the conscious possession of the petitioners. The petitioners had no knowledge regarding the alleged incident. There is no compliance of Section 100 Cr.P.C.

On behalf of the State, it is submitted that the petitioners are named in the F.I.R./complaint case.

Considering the aforesaid facts and circumstances, let the petitioners, above named, in the event of arrest/surrender before the learned court below within a period of six weeks from today, 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 Additional Sessions Judge -VI-cum- Special Judge, Excise Act, Kaimur at Bhabua in connection with Bhabua P.S. Case No. 633 of 2018, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

The learned Sessions Court i.e. Additional Sessions Judge -VI,Kaimur at Bhabua had rejected the anticipatory bail



application of the petitioners on the point of maintainability in the light of provisions under section 76(2) of the Bihar Prohibition and Excise Act, 2016. It is unfortunate that the Court below did not consider the order passed by the Division Bench of this Court in the case of ***Manish Kumar @ Lokesh Kumar versus State of Bihar and other analogous cases*** since reported in ***2017(4) BLJ 288*** and without noticing the same, the order dated 20.09.2018 has been passed.

Let a copy of the order be communicated to the District & Sessions Judge, Kaimur at Bhabua.

The Registry is directed to get the order passed in the case of ***Manish Kumar @ Lokesh Kumar versus State of Bihar and other analogous cases*** since reported in ***2017(4) BLJ 288*** circulated among all the judgeships of Bihar where the respective Courts are designated under the Special Act.

(Sudhir Singh, J)

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