

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4524 of 2019

Arising Out of PS. Case No.-288 Year-2018 Thana- Vibhutipur District- Samastipur

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1. Akhilesh Ray, aged about 35 years (Male), S/o Upendra Ray.
 2. Mithilesh Ray, S/o Surynarayan Ray.
- Both Resident of Village- Narhan, P.S.-Vibhutipur, District-Samastipur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mirtyunjay Kumar, Adv.
Mr. Praveen Kumar, Adv.

For the Opposite Party/s :

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 05-02-2019 Heard learned counsel for the petitioners. No one appears on behalf of the State to oppose this application.

Petitioners are seeking anticipatory bail in connection with Vibhutipur P.S. Case No. 288 of 2018 registered for the offences punishable under Sections 272, 273/34 of the Indian Penal Code and Section 30 (a) of the Bihar Prohibition and Excise Act, 2016.

Learned counsel for the petitioners submits that so far as these two petitioners are concerned, no illicit liquor has been recovered either from their house or from in any other way from the conscious possession of the petitioners. It is submitted that one Gunjan Kumar and Manish Kumar who were arrested by police disclosed the name of the petitioners saying that these



petitioners have also purchased the foreign liquor from one Raja Roy. It is submitted that earlier petitioner no. 2 was made accused in one case of similar nature on the basis of the confessional statement of the co-accused but nothing has been recovered from the conscious possession of the petitioner no.2.

It is further submitted that petitioner no.1 has got two criminal antecedents which have been on account of the family disputes.

Considering the facts and circumstances of the case, where it is the submission of the petitioners that nothing has been recovered from the house of these petitioners or from their conscious possession and their names have been involved in the present case only on the basis of the confessional statements of the co-accused, so far as petitioner no.1 is concerned since there is no case of similar nature against him, in case of arrest or surrender of the petitioner no. 1 within a period of four weeks from today, the abovenamed petitioner no. 1 is directed to be enlarged on bail on furnishing bail bond of Rs.15,000/-(rupees fifteen thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge IIIrd-cum-Special Judge, Excise, Samastipur in connection with Vibhutipur P.S. Case No.288 of 2018, subject to the condition



that petitioner shall join the investigation by reporting to the Investigating Officer within a period of two weeks from today and shall cooperate in course of investigation, failing which the Investigating Officer shall be at liberty to take steps for cancellation of his bail bond. This will be in addition to condition prescribed under Section 438(2) of the Cr.P.C.

So far as petitioner no.2 is concerned, since he has got one criminal antecedent of similar nature, this Court is not granting him privilege of anticipatory bail but in case he surrenders and prays for regular bail in the learned Court below, his prayer for regular bail shall be considered on the same day and shall be disposed of keeping in mind the submissions inter-alia that there is no recovery from the house or conscious possession of petitioner no.2 and his prayer for regular bail shall not be rejected only on the ground that he has got one case of similar nature in which he is said to be on bail as stated in Paragraph 3 of the present application.

The application is disposed of, accordingly.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/-

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