

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9813 of 2019

Arising Out of PS. Case No.-148 Year-2017 Thana- KHAIRA District- Jamui

1. Kedar Yadav, aged about 46 years, Male, Son of Barho Yadav
2. Nandu Yadav aged about 38 years, Male, Son of Karu Yadav
Both resident of Village - Ghutia, P.S.- Lokainarayanpur, District Giridih (Jharkhand).

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Prakash Mahto, Advocate
For the Opposite Party : APP

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

3 26-04-2019 Heard learned counsel for the petitioners and learned APP for the State.

2. The petitioners apprehend their arrest for the offences alleged under Sections 272 and 273 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016 registered in connection with Khaira P.S. Case No. 148 of 2017.

3. It is submitted that the petitioners have been falsely implicated merely on the extra-judicial confessional statement of co-accused Sintu Yadav who has merely stated that the offending goods have been purchased from the petitioners at Giridih in the State of Jharkhand. It is therefore submitted that no offence under the provisions of the Bihar Prohibition and Excise Act, 2016 against the petitioners is made out.

4. Learned APP has not pointed out any material from the case diary in conflict with the stand of the petitioner.

5. Ordinarily, an anticipatory bail petition in relation to the offence under the Bihar Prohibition and Excise Act, 2016 is not maintainable. However, where, on the basis of the statements in the first information report, the ingredients of the offence alleged against



a person are not made out, as observed by a Division of this Court in Cr. Misc. No. 21578 of 2017 (*Manish Kumar @ Lokesh Kumar Vs. The State of Bihar*) and analogous cases, there would be no bar to the grant of anticipatory bail.

6. Be that as it may, in the event of the petitioners' arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioners be released on bail on furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of like amount each to the satisfaction of learned Additional District & Sessions Judge, 2nd Jamui, in connection with Khaira P.S. Case No. 148 of 2017, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and with further conditions -

(i) That one of the bailors of each of the petitioners shall be their close relatives.

(ii) That the petitioners shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioners shall remain physically present in court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, their bail bonds shall be liable to be cancelled by the learned Court concerned.

(iv) That the petitioners shall cooperate with the investigation, if not already concluded, and make themselves available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

BT/-

(Vikash Jain, J)

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