

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11131 of 2019

Arising Out of PS. Case No.-750 Year-2018 Thana- MOTIPUR District- Muzaffarpur

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1. SANJAY RAI son of Nathuni Rai, resident of Village Senduari Ganj Singh,p.s-Motipur,Dist-Muzaffarpur.
 2. Vijay Rai Son of Nathuni Rai, resident of Village Senduari Ganj Singh,p.s-Motipur,Dist-Muzaffarpur.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Bhavesk Kumar

For the Opposite Party/s : Mr.Sangeeta Sharma

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 25-02-2019 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

This application for grant of anticipatory bail arises out of Motipur P.S. Case No. 750 of 2018, disclosing offence under Section 302, 120B and 328/34 of the Indian Penal Code and Section 33/34(a)(b) of Bihar Prohibition and Excise Act, 2016.

Learned counsel appearing on behalf of the petitioners has submitted that since no case under the provisions of the Bihar Prohibition and Excise Act, 2016 is made out, therefore, bar under Section 76(2) of the Act will not apply.

The wife of the deceased is the informant. She has asserted in the First Information Report that the deceased



husband had left the house for consumption of toddy. She has also stated in the First Information Report that she had knowledge where her husband used to go for consumption of toddy. She had specific personal knowledge that the place where her husband (the deceased) used to go to consume toddy, spirit was also sold by the petitioners. The allegation is that the deceased died of consumption of illicit liquor.

The allegations in my view are serious and the submission that no offence is made out under the provisions of the Bihar Prohibition and Excise Act, 2016 cannot be accepted.

In that view of the matter, this application cannot be maintained and is accordingly dismissed.

However, the petitioners are directed to surrender before the Court below within four weeks from today and seek regular bail, if so advised. If they do so, their application for regular bail shall be considered on its own merit without being prejudiced by rejection of the present application for grant of anticipatory bail by this Court.

(Chakradhari Sharan Singh, J)

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