

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32535 of 2019

Arising Out of PS. Case No.-249 Year-2019 Thana- SONEPUR District- Saran

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1. Bachchu Rai @ Bachchu Lal Rai, aged about 50 years (male) Son of Ram Sakal Rai
 2. Rahul Rai aged about 25 years (male)
 3. Kundan Kumar alias Kundan Rai, aged about 23 years (Male)
2 and 3 both sons of Bachchu Rai
All residents of Village - Kharika, P.S.- Sonepur, District - Saran.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Najmul Hoda, Advocate
For the Opposite Party : APP

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

3 14-08-2019 Heard learned counsel for the petitioners and learned APP
for the State.

2. The petitioners apprehend their arrest for the offences alleged under Section 30(A) of the Bihar Prohibition and Excise Act, 2016 (For short, the “Prohibition Act, 2016”) registered in connection with Sonepur P.S. Case No. 249 of 2019.

3. It is submitted that the petitioners have been falsely implicated in connection with recovery of foreign liquor from the bedroom of petitioner no. 2 upon search being made by the informant. It is submitted that in any event, from perusal of the FIR, no accusation has been made in order to attract the ingredients of any offence under the Prohibition Act, 2016 as regards petitioner nos. 1 and 3. It is submitted that petitioner nos. 1 and 3 were found running away from the place of occurrence. The petitioners claim clean antecedents.

4. As regards petitioner no. 2, namely, Rahul Rai, having



regard to the nature of accusations and gravity of offence alleged, this Court is not inclined to grant anticipatory bail to him. His anticipatory bail petition stands dismissed.

5. As regards petitioner nos. 1 and 3, namely, Bachchu Lall Rai alias Bachchu Rai and Kundan Kumar alias Kundan Rai, ordinarily, an anticipatory bail petition in relation to the offence under the Prohibition 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.

5. Learned APP has not pointed out any material in the FIR alleging any offence said to have been committed by the petitioner nos. 1 and 3 in order to attract the provisions of the said Prohibition Act, 2016.

6. Be that as it may, in the event of arrest or surrender of petitioner nos. 1 and 3 before the court below within six weeks from the date of communication of this order, let them 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 and Sessions Judge, IX-cum-Special Judge, Excise , Saran, Chapra in connection with Sonapur P.S. Case No. 249 of 2019, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. and with further conditions -

(i) That one of the bailors of petitioner nos. 1 and 3 shall be their close relatives.

(ii) That petitioner nos. 1 and 3 shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioner nos. 1 and 3 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 petitioner nos. 1 and 3 shall co-operate 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.

(Vikash Jain, J)

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