

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.37365 of 2019

Arising Out of PS. Case No.-22 Year-2019 Thana- ALIPUR District- Gaya

1. Ramesh Manjhi (Male), aged about 27 years.
2. Nanhak Manhhi @ Nanhe Manjhi (Male), aged about 44 years
3. Rajesh Manjhi @ Ramshila Manjhi (Male), aged about 33 years.
All are sons of Late Pairu Manjhi
4. Kail Manjhi @ Kaiel Manjhi (Male), aged about 70 years, Son of Late Shama Manjhi
5. Kanhai Manjhi (Male), aged about 43 years, Son of Late Briksh Manjhi
All are residents of Village - Ur Bishanpur, P.S.- Alipur, and District - Gaya.

... .. Petitioners

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioners	:	Mr. Manish Kumar No. 2 Mr. Gajendra Kr. Singh, Advocates
For the Opposite Party	:	APP

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 20-06-2019 Heard learned counsel for the petitioners and learned APP for the State.

2. The petitioners apprehend their arrest for the offences alleged under Sections 147, 341, 323, 328 and 353 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016 registered in connection with Alipur P.S. Case No. 22 of 2019.

3. It is submitted that the petitioners have been falsely implicated due to old dispute. It is submitted that even according to the FIR, there is no whisper about any allegation of the offence attracting the provisions of the Bihar Prohibition and Excise Act, 2016 as concerns the present petitioners who are merely said to have made protest along with other co-villagers. Recovery of



incriminating articles has been made from the house of co-accused Shivdeni Manjhi and not from the petitioners, who claim clean antecedents.

4. 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.

5. Learned APP has not pointed out any material in the FIR alleging any offence said to have been committed by the petitioner in order to attract the provisions of the said Excise Act.

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 Special Judge- Excise, Act, Gaya in connection with Alipur P.S. Case No. 22 of 2019, 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.

(Vikash Jain, J)

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