

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46082 of 2019

Arising Out of PS. Case No.-193 Year-2019 Thana- BARACHATTI District- Gaya

1. KAPIL PASWAN Son of Badho Paswan Resident of Village- Amkola, P.S. - Mohanpur, District- Gaya.
2. Karu Paswan @ Dharmendra Paswan @ Dharmendra Son of Lakhan Paswan Resident of Village- Amkola, P.S. - Mohanpur, District- Gaya.
3. Keshar Paswan Son of Late Budhai Paswan Resident of Village- Amkola, P.S. - Mohanpur, District- Gaya.
4. Dipak Paswan Son of Umesh Paswan Resident of Village- Amkola, P.S. - Mohanpur, District- Gaya.
5. Rajkumar Paswan Son of Late Bauli Paswan Resident of Village- Amkola, P.S. - Mohanpur, District- Gaya.
6. Guddu Paswan Son of Rajkumar Paswan Resident of Village- Amkola, P.S. - Mohanpur, District- Gaya.
7. Bila Paswan @ Niranjan Kumar Son of Kapil Paswan Resident of Village- Amkola, P.S. - Mohanpur, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Prithivi Raj Singh
For the Opposite Party/s : Ms.Pushpa Sinha

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 25-07-2019 Heard learned counsel for the petitioner and learned APP
for the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 341, 323, 353, 354, 307, 427, 337, 34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition & Excise Act, 2016 (for short 'the Prohibition Act') registered in connection with Barachatti (Mohanpur) P.S. Case No. 193 of 2019.

3. It is submitted that the petitioners have been falsely implicated and the FIR is against as many as 10 named and 30-35 unknown persons. The petitioners merely happened to be in the vicinity and the accusations are general and omnibus in nature without any specific



accusation attributed to the petitioners. The solitary averment in the entire FIR against the petitioners is that they surrounded the police vehicle and pelted brick stones on the police party in which one choukidar has sustained injury and glass of the police vehicle damaged. However, no accusation whatsoever has been made connecting the petitioners with the alleged recovery of offending goods. It is therefore, submitted that no offence under the Prohibition Act is made out against the petitioners. The petitioners claim clean antecedents.

4. Ordinarily, an anticipatory bail petition in relation to the offence under the Prohibition Act 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 Bench 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 Prohibition Act, 2016.

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 bond of Rs.10,000/- (ten thousand) each with two sureties of like amount each to the satisfaction of learned Special Judge, Excise, Gaya in connection with Barachatti (Mohanpur) P.S. Case No. 193 of 2019, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and also subject to the following further conditions:

- i. That one of the bailors shall be a close relative of the petitioners.
- ii. That the petitioners shall not indulge in any similar offence till conclusion of the trial.
- iii. That the petitioners 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.

iv. 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.

(Vikash Jain, J)

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