

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46521 of 2019

Arising Out of PS. Case No.-87 Year-2019 Thana- PAHARPUR District- East Champaran

1. DEO LAL MAHTO S/O Nathu Mahto Resident of village Saraiya Briti, Dhangad Toli, P.S. Paharpur, District- East Champaran.
2. Shiv Pujan Mahto S/O Budhan Mahto Resident of village Saraiya Briti, Dhangad Toli, P.S. Paharpur, District- East Champaran.
3. Firoz Mahto S/O Late Gulab Mahto Resident of village Saraiya Briti, Dhangad Toli, P.S. Paharpur, District- East Champaran.
4. Kanahaiya Mahto S/O Late Gulab Mahto Resident of village Saraiya Briti, Dhangad Toli, P.S. Paharpur, District- East Champaran.
5. Nandu Mahto S/O Ramchandra Mahto Resident of village Saraiya Briti, Dhangad Toli, P.S. Paharpur, District- East Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhurendra Kumar
For the Opposite Party/s : Mr.Pronoti Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 26-07-2019 Heard learned Counsel for the petitioners and
learned Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail, arises out of Paharpur Police Station Case No. 87 of 2019, disclosing offences under Section 30 (a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as ‘the Act’).

The allegation against the petitioners, as per the First Information Report, is that the Police reached near the house of petitioner, Deo Lal Mahto and Sheo Pujan Mahto, and during



search, recovered 7 litres of illicit liquor from in front of the house of petitioner nos. 1 and 2, 11 litres of illicit liquor from in front of the house of petitioner nos. 3 and 4 and 2 litres of illicit liquor from in front of the house of petitioner no. 5, buried in soil.

Learned Counsel for the petitioner submits that the petitioners have falsely been implicated in this case inasmuch as no recovery of illicit liquor has been made from either the premises belonging to the petitioners or from their conscious possession. He further submits that from perusal of the First Information Report, it is evident that the illicit liquor has been recovered from in front of the houses of the petitioners and not from inside their houses. He further submits that the petitioners have no criminal antecedent and from perusal of the First Information Report and the seizure list, no *prima facie* case is made out against this petitioners.

After having heard learned Counsel for the parties and taking into consideration the fact that no illicit liquor has been recovered either from the premises of the petitioners or from their conscious possession and the same was recovered from in front of their houses buried in soil as such, on perusal of the First Information Report and seizure list, in my opinion, no



prima facie case is made out against the petitioners under the provision of the Act. Accordingly, this application is allowed.

Let the petitioners, above named, in the event of their arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned 9th Additional Sessions Judge -cum- Special Judge, Excise, East Champaran, at Motihari, in connection with Paharpur Police Station Case No. 87 of 2019, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioners shall present themselves before the police/Court, as the case may be, as and when required and in the event of failure on their part to appear before the Court on two consecutive occasions, their bail bonds shall be liable to be cancelled.

Prabhakar Anand/-

(Anil Kumar Sinha, J.)

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