

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45794 of 2019**

Arising Out of PS. Case No.-57 Year-2019 Thana- HATHAURI District-
Samastipur

- =====
1. RANJEET KUMAR RAI @ RANJAY KUMAR RAI @ RANJAY KUMAR RAY, male, aged about 37 years, Son of Janardan Ray @ Janardan Prasad Rai @ Janardan Prasad Ray Resident of Village - Dasaut Shivajinagar, P.S.- Hathauri, Dist.- Samastipur,
 2. Shyamjee Rai @ Shyam Kumar Rai @ Shyam Kumar Ray, male, aged about 35 years, Son of Shiv Rai @ Shiv Ray Resident of Village - Dasaut Shivajinagar, P.S.- Hathauri, Dist.- Samastipur,

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioners : Mr. Arun Kumar, Advocate.

For the Opposite Party: APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 24-07-2019 Heard learned counsel for the petitioners and learned
APP for the State.

2. The petitioners apprehend their arrest for the offences alleged under Sections 30(a), 38, 39 and 41 of the Bihar Prohibition and Excise Act, 2016 (for short, 'the Prohibition Act') registered in connection with Hathauri P.S. Case No. 57 of 2019, G.R. No. 638 of 2019..

3. It is submitted that the petitioners have been falsely implicated on mere suspicion, except which there is no objective material to connect the petitioners with the alleged occurrence. The solitary averment in the entire F.I.R. against the petitioners is



that secret information was received that they were violating the provisions of the Prohibition Act. However, no accusation whatsoever has been made connecting the petitioners with the alleged recovery of the offending goods. Neither has it been alleged that it was the petitioners who were unloading the goods from the truck nor that they were the persons who ran away from the spot. As such, on a bare perusal of the F.I.R., 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 persons 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 grant of anticipatory bail.

5. Learned APP has also not pointed out any specific accusation made against the petitioners except secret information said to have been received by the informant.

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 2nd Additional Sessions Judge cum Special Judge Excise Act, Samastipur in connection with Hathauri P.S. Case No. 57 of 2019, G.R. No. 638 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 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.

(iv) 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.

(Vikash Jain, J)

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