

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48279 of 2019

Arising Out of PS. Case No.-187 Year-2019 Thana- MAJHAULIA District- West Champaran

1. KARI DEVI Wife of Indrashan Mahto Resident of Village - Bakhariya Dhangad Toli (Lal Saraiya), P.S.- Majhauria, District - West Champaran.
2. Manoj Mahto Son of Late Chhotelal Mahto Resident of Village - Bakhariya Dhangad Toli (Lal Saraiya), P.S.- Majhauria, District - West Champaran.
3. Madan Mahto Son of Late Raghunath Mahto @ Briksha Mahto Resident of Village - Bakhariya Dhangad Toli (Lal Saraiya), P.S.- Majhauria, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey
For the Opposite Party/s : Mr.Parmanand Kumar

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 02-08-2019 Heard learned counsels for the petitioner and the State.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 30(a) and 37(c) of the Bihar Prohibition and Excise Act, 2016.

It is alleged that from the house of the petitioner no. 1, 15 litres country made liquor, from the house of petitioner no.2, 15 litres country made liquor and from the house of petitioner no. 3, 10 litres of country made liquor were recovered.

It is submitted by learned counsel for the



petitioners that the petitioners were not present in their house at the time of recovery. Moreover, the houses of the petitioners were sealed which suggests that the recovery was not made from their physical conscious possession. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP submits that the recovery was made from the houses of the petitioners.

Considering the recoveries made from the respective houses of the petitioners and in view of provision of non-maintainability of the anticipatory bail under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 as also the ratio laid down by the Full Bench in the case of Ram Vinay Yadav Vs. State of Bihar reported in 2019(2) PLJR 1089, the present anticipatory bail application is not maintainable.

However, in view of the parameters laid down in the case of Ashok Sahni Vs. State of Bihar reported in 2017(3) PLJR 632, let the learned Court below consider the prayer for regular bail of the petitioners, if they surrender within a period of six weeks in connection with Majhauria P.S. Case No. 187 of 2019, pending in the Court of learned



Special Judge, Excise, West Champaran at Bettiah.

Accordingly, the present application is disposed
of.

(Dinesh Kumar Singh, J)

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