

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48379 of 2019

Arising Out of PS. Case No.-175 Year-2019 Thana- JAGDISHPUR District- Bhojpur

1. Suresh Ram @ Suresh Paswan, Son of Late Baidhnath Paswan Resident of Tenduni Ward No. 10, P.S. Jagdishpur, District- Bhojpur.
2. Kamala Devi @ Kamalawati Devi Wife of Suresh Paswan Resident of Tenduni Ward No. 10, P.S. Jagdishpur, District- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajendra Nath Sinha

For the Opposite Party/s : Mr.Suresh Prasad Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 05-08-2019 Heard learned counsel for the petitioners and learned counsel appearing on behalf of the State.

Petitioners apprehend their arrest in connection with Jagdishpur P.S. Case No.175 of 2019 for the offence punishable under Section 30(a) of Bihar Excise and Prohibition Act, 2016.

The allegation against the petitioners, as mentioned in the FIR is that the police upon information raided the house of the petitioners and recovered 14 litres of Mahua wine from the house of the petitioner No.1.

Learned counsel for the petitioners submits that petitioners are innocent and have falsely been implicated in this case due to the fact that petitioner No.2 is ward counselor of



Ward No.10 and has falsely been implicated at the behest of rival groups.

Learned counsel further submits that seizure list has not been prepared as per the provisions under Section 100 Cr.P.C. Learned counsel further submits that house belongs to petitioner No.1, as would be evident from the FIR and seizure list and petitioner No.2 has been implicated mainly because she is wife of petitioner No.1

After having heard learned counsel for the petitioners as well as learned counsel appearing on behalf of the State and taking into consideration the fact that the illegal liquor has been recovered from the house of petitioner No.1, in view of Full Bench judgment passed in **Cr. Appeal (SJ) No.431 of 2019**, I am not inclined to exercise my discretion under Section 438 of Cr.P.C. As such the present anticipatory bail application against petitioner No.1 is rejected.

However, insofar as petitioner No.2 is concerned, it appears that she has been made accused mainly on the basis of the fact from the she is residing in the house along with her husband from where the liquor in question has been recovered, as such, I am inclined to grant anticipatory bail to the petitioner No.2.



Accordingly, the petitioner No.2, namely, Kamala Devi @ Kamalawati Devi, is directed to surrender before the learned Court below within a period of four weeks from today and in the event of surrender by her, she shall be released on anticipatory bail by the Court below upon furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned IVth Additional Sessions Judge-cum-Special Excise Act, Bhojpur at Ara, subject to the condition as mentioned under Section 438 (2) of Cr.P.C.

(Anil Kumar Sinha, J)

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