

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57919 of 2019

Arising Out of PS. Case No.-11 Year-2019 Thana- BHADAUR District- Patna

1. RAM RATAN CHAUHAN S/O Late Kapildev Chauhan Resident of Village- Akbarpur Beldari, P.S.- Bahadur, District- Patna.
2. Malti Devi Wife of Ram Ratan Chauhan Resident of Village Akbarpur Beldari, P.S.- Bahadur, District- Patna.
3. Pratima Kumari @ Pratima @ Partima D/o Ram Ratan Chauhan Resident of Village Akbarpur Beldari, P.S.- Bahadur, District- Patna.
4. Poonam Devi Wife of Ajay Kumar Resident of Village Akbarpur Beldari, P.S.- Bahadur, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kameshwar Singh

For the Opposite Party/s : Mr.Parmanand Prasad

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 13-09-2019 Heard learned counsel for the petitioners and learned APP
for the State.

2. The petitioners apprehend their arrest for the offences alleged under Sections 147, 341, 323, 353, 337 IPC and Section 30(a) of the Bihar Prohibition & Excise Act, 2016 (for short 'the Prohibition Act') registered in connection with Special Case No. 2640 of 2019, arising out of Bhadaur P.S. Case No. 11/2019.

3. It is submitted that the petitioners has been falsely implicated in connection with recovery of five litres of deshi mahua wine from the house of co-accused Ajay Kumar Chauhan. It is submitted however, that no accusation has been made in the FIR connecting the petitioners with the alleged recovery, merely stating



that the petitioners fled away upon seeing the police. It is therefore, submitted that no offence under the Prohibition Act is made out against the petitioners, three of whom are ladies, and all of whom 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 petitioners 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 Excise Court, Patna in connection with Special Case No. 2640 of 2019, arising out of Bhadaur P.S. Case No. 11/2019 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 petitioner no. 1 shall remain physically present in Court on each and every date during trial and petitioner nos. 2, 3 and 4 shall be well represented in Court on each and every date during trial except as and when directed by the learned Court below to be physically present, 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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