

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59102 of 2019**

Arising Out of PS. Case No.-2 Year-2019 Thana- SIKANDRA District- Jamui
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1. SUSHILA DEVI W/o Late Sharan Dharhi @ Shiya Sharan Ram R/o village- Pohe, P.S.- Sikandra, District- Jamui
2. Koiya Ram S/o Late Bishun Deo Ram R/o village- Pohe, P.S.- Sikandra, District- Jamui
3. Lagan Ram S/o Late Bishundeo Ram R/o village- Pohe, P.S.- Sikandra, District- Jamui

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioners : Mr. Prakash Mahto, Advocate.

For the Opposite Party: Mr. Anuj Kumar Shrivastava, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 18-09-2019 Heard learned counsel for the petitioners and learned
APP for the State.

2. The petitioners apprehend their arrest for the offences alleged under Sections 272 and 273 of the Indian Penal Code and Sections 30(a) of the Bihar Prohibition and Excise Act, 2016 (for short 'the Prohibition Act') registered in connection with Sikandra P.S. Case No. 02 of 2019.

3. It is submitted that the petitioners have been falsely implicated and at best two boxes of 15 litres each of *jawa gur* has been recovered from the Government pond and canal. It is submitted that no incriminating goods attracting the ingredients of the Prohibition Act have been recovered and except secret information, there is no allegation connecting the petitioners with the recovered goods which have been destroyed without preparing the seizure list. 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 the grant of anticipatory bail.

5. Learned APP has not pointed out any material in the F.I.R. alleging any offence to have been committed by the petitioners in order to attract the provisions of the said Prohibition Act.

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 A.D.J. 2nd Jamui in connection with Sikandra P.S. Case No. 02 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 petitioner no. 1 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 petitioner nos. 2 and 3 shall remain physically present in Court on each and every date, 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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