

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60370 of 2019

Arising Out of PS. Case No.-295 Year-2019 Thana- BASANTPUR District- Siwan

1. RAJIV KUMAR YADAV @ KALI CHARAN YADAV @ RAJIV KUMAR
Son of Ramjit Yadav Resident of Village - Husepur, P.S.- Basantpur, Dist.-
Siwan.
2. Vijay Singh @ Vijay Kumar Singh Son of Parma Singh Resident of Village -
Kanhauri, P.S.- Basantpur, Dist.- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bijay Prakash Singh
For the Opposite Party/s : Mr.Sanjay Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 26-09-2019 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, 273, 308 of the Indian Penal Code and
under Section 30(a) of the Bihar Prohibition & Excise Act, 2016 (for
short 'the Prohibition Act') registered in connection with Basantpur
P.S. Case No. 295 of 2019

3. It is submitted that the petitioners have been falsely
implicated in connection with recovery of 456.750 litres of foreign
liquor. It is submitted that even on perusal of the FIR, no accusation
has been made against the petitioners in order to attract the offence
alleged under the Prohibition Act as the alleged recovery was made
from a dilapidated straw hut of the village Husepur Nand, without
however connecting the place of recovery or the said goods to the



petitioners in any manner whatsoever.

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 2nd Additional Sessions Judge-cum- Special Judge Excise, Siwan in connection with Basantpur P.S. Case No. 295 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 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 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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