

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61708 of 2019

Arising Out of PS. Case No.-205 Year-2019 Thana- NAUTAN District- West Champaran

1. DEVENDRA RAM Son of Nandlal Ram Resident of Village - Dakshin Telhua, Harijan Toli, P.S.- Nautan, Dist.- West Champaran.
2. Mukesh Paswan Son of Chokat Paswan @ Chokat Hazara Resident of Village - Dakshin Telhua, Harijan Toli, P.S.- Nautan, Dist.- West Champaran.
3. Umesh Paswan Son of Swaroop Paswan Resident of Village - Dakshin Telhua, Harijan Toli, P.S.- Nautan, Dist.- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar No 7
For the Opposite Party/s : Mr.Anil Prasad Singh

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 14-10-2019 Heard learned counsel for the petitioners and learned APP for the State.

2. The petitioners apprehend their arrest for the offences alleged under Sections 30(a) of the Bihar Prohibition & Excise Act, 2016 (for short 'the Prohibition Act') registered in connection with Nautan P.S. Case No. 205 of 2019.

3. It is submitted that the petitioners have been falsely implicated on mere suspicion, except which there is no objective material to connect the petitioners with the alleged occurrence. The solitary averment in the entire FIR against the petitioners is that secret information has been received that they were violating the provisions of the Prohibition Act and that some villagers have stated that the recovered goods belonged to the petitioners who had fled away from the spot. However, no accusation has been made whatsoever and the basis of such



secret information or statement of villagers attributing commission of the offence by the petitioners. The informant has merely requested for action to be taken against the persons who fled away, but it is submitted that mere fleeing from the spot does not constitute any offence under the Prohibition Act. 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 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 except the secret information and statement of some villagers 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 Judge, Excise, Bettiah, West Champaran in connection with Nautan P.S. Case No. 205 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)

Chandran/-

U		T	
---	--	---	--

