

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63688 of 2019

Arising Out of PS. Case No.-191 Year-2019 Thana- BUXAR MUFFASIL District- Buxar

1. BABLI BIND @ BABLI BIN S/o Kashi Bind @ Kashinath Bin R/o village-Akhouri Pur, P.S.- Buxar (Muffasil), Distt.- Buxar
2. Bharat Bind @ Bharat Bin S/o Kashi Bind @ Kashinath Bin R/o village-Akhouri Pur, P.S.- Buxar (Muffasil), Distt.- Buxar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dr. Kamal Deo Sharma

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

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 23-10-2019 Heard learned counsel for the petitioners and learned
APP for the State.

2. The petitioners apprehend their arrest for the offences alleged under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, as amended in 2018, (hereinafter to be referred to as ‘the Prohibition Act’), registered in connection with Buxar (Muffasil) P.S. Case No. 191 of 2019.

3. It is submitted that the petitioners have been falsely implicated in connection with recovery of 1314 litres of foreign liquor from the house of co-accused Kashi Bind, as it has been merely stated in the FIR that the petitioners, who are sons of the aforesaid co-accused Kashi Bind, fled away from the house on



seeing the police party. It is submitted, however, that mere fleeing away on seeing the police party is not an offence under the Prohibition Act. No accusation has been made connecting the petitioners with the recovery of incriminating goods. 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 alleging any offence to have been committed by the petitioners in order to attract the provisions of the Prohibition Act.

6. Be that as it may, in the event of petitioners' arrest or surrender before 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 bonds of Rs. 10,000/-(ten thousand) each, with two sureties of the like amount each to the



satisfaction of learned A.D.J. 2nd-cum-Special Judge, Excise Act, Buxar, in connection with Buxar (Muffasil) P.S.Case No. 191 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) That 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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