

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63633 of 2019

Arising Out of PS. Case No.-96 Year-2019 Thana- NAYAGAON District- Saran

1. KANCHAN DEVI W/o Dheeraj Kumar Sah Resident of Village - Mahmud Chak, P.S.- Nayagaon, Distt.- Saran.
2. Rupa Devi W/o Pankaj Sah Resident of Village - Ward No. 12, Sonapur Adam, P.S.- Sonapur, Distt.- Saran.
3. Pratibha Kumari W/o Abhinandan Kumar Sah Resident of Village - Mahmud Chak, P.S.- Nayagaon, Distt.- Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arvind Kumar

For the Opposite Party/s : Mr.Abhay Kumar Roy

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 22-10-2019 Heard learned counsel for the petitioners and learned
APP for the State.

2. The petitioners apprehend their arrest for the offences alleged under Sections 147, 148, 341, 323, 333, 353, 504, 506, 188, 272, 273 and 201 of the Indian Penal Code and Sections 30, 38, 41 and 45 of the Bihar Prohibition and Excise Act, 2016 (for short 'the Prohibition Act'), registered in connection with Nayagaon P.S. Case No. 96 of 2019.

3. It is submitted that the petitioners have been falsely implicated and the FIR is against as many as nine named and 10-12 unknown persons. The solitary averment in the entire FIR against the petitioners is that they damaged the police vehicle and threatened to kill the police personnel. However, no accusation whatsoever has been made connecting the petitioners with the alleged recovery of offending goods. It is,



therefore, submitted that no offence under the Prohibition Act is made out against the petitioners. The petitioners are ladies claiming 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 court of XI A.D.J.-cum Special Judge, Excise, Saran at Chapra in connection with Nayagaon P.S. Case



No. 96 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 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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