

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74983 of 2019

Arising Out of PS. Case No.-581 Year-2019 Thana- TURKAULIYA District- East
Champaran

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1. RAKESH KUMAR RAI Son of Haribadan Rai Resident of Village- Chutahi, P.S.- Turkauliya, District- East Champaran.
 2. Ramesh Kumar Rai Son of Haribadan Rai Resident of Village- Chutahi, P.S.- Turkauliya, District- East Champaran.
 3. Haribadan Rai Son of Late Basisth Rai Resident of Village- Chutahi, P.S.- Turkauliya, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vijay Shankar Shrivastava

For the Opposite Party/s : Mr.Upendra Kumar

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 25-11-2019 Heard the learned counsel for the petitioners and the
learned A.P.P. for the State.

The petitioners apprehend their arrest in connection with Turkauliya P.S. Case No. 581 of 2019 for the offence registered under Sections 272, 273/34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The allegation is regarding recovery of 50 litres of sprit from the half constructed house of the petitioners herein.

The learned counsel for the petitioners has submitted that since the house in question is half constructed, anyone could have planted the sprit, hence the petitioners cannot be stated to be the persons owning the said sprit in question. It is further submitted that as far as the petitioner nos. 2 & 3 are concerned, they are



having no criminal antecedent, however, the petitioner no.1 is involved in one other case in which he is on bail.

I have heard the learned counsel for the parties and perused the materials on record and I find that this is not a case in which no offence under the provisions of the Bihar Excise and Prohibition Act can be said to be made out, hence the bar of granting anticipatory bail under Section 438 Cr.P.C., as provided under Section 76(2) of the Bihar Prohibition & Excise Act shall come into force and consequently it is held that the present anticipatory bail is not maintenance. However, I deem it fit and proper to direct the petitioners to surrender before the learned court below and seek regular bail and in case such a petition for grant of regular bail is filed within a period of four weeks from today, the learned court below shall dispose off the same on the very same day of filing of such petition and shall also consider the fact that merely 50 litres of spirit has been recovered and that too from a half constructed house, hence the complicity of the petitioners in the alleged crime is doubtful.

The petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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