

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77041 of 2018**

Arising Out of PS. Case No.-340 Year-2018 Thana- BARHARA District-
Bhojpur

- =====
1. Ashok Kumar Ray @ Ashok Rai Son of Khubi Rai, resident of Vill.- Manichappra, P.S. Barhara, Dist.- Bhojpur.
 2. Munna Kumar Rai @ Munna Rai, Son of Nasib Rai @ Surender Rai.
 3. Sunder Rai, Son of Dyali Rai.
 4. Vishwanath Rai, Son of Ram Kewal Rai @ Rambachan Rai.
 5. Rang Lal Rai, Son of Bhageran Rai @ Sudarshan Rai.
 6. S.P. Rai, Son of Ramashish Rai, All are Resident of Vill.- Matukpur, P.S.- Barhara, Dist.- Bhojpur.

... .. Petitioners

Versus

The State Of Bihar

... .. Opposite Party

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Appearance :

For the Petitioners : Mr. Manoj Kumar, Advocate.

For the Opposite Party: APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

3 28-03-2019 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, 149, 323, 307, 221, 353, 427, 337, 338 of the Indian Penal Code and 30(a) of Bihar Prohibition & Excise Act, 2016 registered in connection with Excise Case No. 1346 of 2018 arising out of Barhara P.S. Case No. 340 of 2018.

3. It is submitted that the petitioners have been falsely implicated and even on the accusation in the F.I.R. to the effect that the petitioners along with other villagers helped co-accused persons from whom recovery of country made liquor was made, to escape no offence under the Bihar Prohibition and Excise Act,



2016 are made out against the petitioners.

4. Ordinarily, an anticipatory bail petition in relation to the offence under the Bihar Prohibition and Excise Act, 2016 is not maintainable. However, where, on the basis of the statements in the first information report, the ingredients of the offence alleged against a persons 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 F.I.R. alleging any offence to have been committed by the petitioners in order to attract the provisions of the said Act.

6. It is further submitted that the accusation under Section 307 of the Indian Penal Code are also not sustainable as the injuries are simple in nature. The petitioners claim clean antecedents.

7. 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 A.D.J. 4th cum Special Judge, Bhojpur at Ara, in connection with Excise Case No. 1346 of 2018 arising out of Barhara P.S. Case No. 340 of 2018, 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 cooperate 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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