

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6138 of 2020

Arising Out of PS. Case No.-364 Year-2019 Thana- DIGHA District- Patna

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1. RAJA RAI @ RAJ KISHOR KUMAR Son of Gogal Rai @ Sikandar Rai Resident of Village - Gandhi Gali (Gandhi Road) Ramji Chak, Behind Bharat Gas Godown, P.S.- Digha, and Distt - Patna.
 2. Vipin Rai @ Vipin Kumar Son of Ram Badan Rai Resident of Village - Gandhi Gali (Gandhi Road) Ramji Chak, Behind Bharat Gas Godown, P.S.- Digha, and Distt - Patna.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arvind Kumar Sinha
For the Opposite Party/s : Mr.Kumar Veerendra Narayan

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 02-03-2020 Heard learned counsel for the petitioners and learned APP for the State.

2. The petitioners apprehend their arrest for the offences alleged under Section 341, 323, 504, 506, 307 and 34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 37(B) and (C) of of the Bihar Prohibition and Excise Act,2016 (for short ‘the Prohibition Act’), registered in connection with Falka P.S. Case No. 218 of 2019.

3. It is submitted that the petitioners have been falsely implicated on the accusation in the FIR and no offence whatsoever has been alleged against the petitioners in order to attract the provision of the Prohibition Act. Such accusation has



been made against co-accused Sunil Kumar who was said to have been found in drunken condition. It is further submitted that no specific overt act of assault has been alleged against the petitioners. The accusation under the Arms Act is general and omnibus. No injury has been caused to anyone. 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 bond of Rs. 10,000/-(ten



thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise Patna in connection with Digha P.S. Case No. 364 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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