

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20091 of 2020

Arising Out of PS. Case No.-131 Year-2019 Thana- CHANDI District- Bhojpur

1. Shyam Bihari @ Babua S/o Late Mahajidi Singh R/o village- Salempur, P.S.- Chandi, Distt.- Bhojpur
2. Jilal Singh S/o Late Jhunuk Singh R/o village- Salempur, P.S.- Chandi, Distt.- Bhojpur
3. Udhav Singh @ Udho Singh S/o Jilal Singh R/o village- Salempur, P.S.- Chandi, Distt.- Bhojpur
4. Ajay Singh S/o Jilal Singh R/o village- Salempur, P.S.- Chandi, Distt.- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar
For the Opposite Party/s : Mr.Amarendra Prasad

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 07-07-2020 The matter has been taken up through virtual Court proceeding.

Heard learned counsel for the petitioners and
learned APP for the State.

Since the physical court proceeding is non-
functional, due to present pandemic, COVID-19, the matter is
listed with defects.

Learned counsel for the petitioners undertakes to
remove the defects within three weeks of resumption of physical



court proceeding. In the eventuality of non-removal of defects within undertaken period, the office will place the matter before the bench.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 272, 273, 120B/34 of the Indian Penal Code, 1860 and Section 30(a) of the Bihar Prohibition and Excise Act, 2016 as amended by Act 8 of 2018.

The prosecution case, as per the self statement of S.I., Kunwar Prasad Gupta recorded on 17.07.2019 at 12.30 P.M., is to the effect that on the same day a telephone message was received that certain people are manufacturing liquor on the embankment of Chharki river, consequently, a raid was laid when on seeing the police party, six persons managed to escape from the scene, whose name were disclosed by the Chaukidar and villagers which includes the name of the petitioner and co-accused Ashok Singh and from the embankment of the river, 10 litres of country made liquor were recovered.

It is submitted by learned counsel for the petitioner that the recovery has not been made from conscious physical possession of the petitioners rather the same has been recovered from an open area and similarly situated co-accused Ashok



Singh has been granted anticipatory bail by Co-ordinate bench of this Court vide order dated 19.12.2019 passed in Cr. Misc. No. 84492 of 2019. A statement has been made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP submits that the petitioners and others escaped from the place of seizure.

Considering the fact that the recovery has been made from an open area and similarly situated co-accused has been granted anticipatory bail by Co-ordinate bench, coupled with the statement made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent, let the petitioners above named be released on provisional anticipatory bail for three months, in the event of arrest or surrender before the learned Court below within a period of 6 weeks from today, on furnishing one surety to the satisfaction of the learned Additional Sessions Judge- 4th -cum- Special Judge, Excise Act, Bhojpur at Ara in connection with Chandi P.S. Case No. 131 of 2019.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo



copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioners which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional anticipatory bail of the petitioners will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties, including one surety given at the time of provisional bail of the like amount each to the satisfaction of the learned Additional Sessions Judge- 4th -cum- Special Judge, Excise Act, Bhojpur at Ara in connection with Chandi P.S. Case No. 131 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

The learned Court below will be at liberty to further extend the period of provisional anticipatory bail if the court proceeding in physical mode will not resume in next three months.

Accordingly, the application is disposed of.

(Dinesh Kumar Singh, J)

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