

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.20118 of 2020**

Arising Out of PS. Case No.-4 Year-2020 Thana- SINGHIYA District- Samastipur

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1. RADHE MUKHIYA @ RADHESHYAM MUKHIYA @ RADHEY MUKHIYA Son of Asharfi Mukhiya Resident of Village-Pipraghat, P.S-Singhia, District-Samastipur.
  2. Arjun Mukhiya Son of Ram Kishun Mukhiya Resident of Village-Pipraghat, P.S-Singhia, District-Samastipur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Raja Ram Mishra, Adv.  
For the Opposite Party/s : Ms. Shaheen Begum, APP

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**  
**ORAL ORDER**

2      08-07-2020                      The Court proceeding has been conducted through virtual mode.

Since the physical Court is not functional due to the present pandemic, Covid-19, the matter has been listed with defects.

Learned counsel for the petitioners undertakes to remove the defects within a period of three weeks on resumption of physical court proceeding.

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

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



The petitioners are apprehending their arrest in a case registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, as amended by the Amendment Act 8 of 2018, (hereinafter referred to as 'the Act').

The prosecution case as per the self statement of S.I., Pankaj Kumar submitted before the S.H.O., Singhia Police Station is to the effect that on 03.01.2020 at 5.00 P.M., an information was received from the police headquarter that in the village Pipraghat near Bajrangbali temple, in the house of late Dular Chand Mukhiya, where her widow is residing, has concealed liquor. Consequently, the raid was laid and the said lady was apprehended who disclosed her name as Domani Devi. During course of frisking, from a heap of straw at the backside of the hutment, 42.300 litres of Indian Made Foreign Liquor were recovered. On inquiry co-accused, Domani Devi suggested the name of other accused persons who used to brought liquor as, Radh Mukhiya, petitioner no.1 and Arjun Mukhiya, petitioner no.2 and co-accused, Chhedi. Subsequently, from a heap of straw at the back side of an under constructed house of the petitioner no.1, Radhe Mukhiya, 36 litres of Indian Made Foreign Liquor were recovered whereas 8.730 litres of Indian Made Foreign Liquor were recovered from the



embankment of river in front of the house of the petitioner no.2, Arjun Mukhiya.

It is submitted by learned counsel for the petitioners that no recovery has been made from the conscious physical possession of the petitioners. Statement has been made in paragraph no.7 of the petition with regard to the petitioner no.1 that the said under constructed house from where the recovery of liquor has been shown to be made, does not belong to him. So far as recovery of liquor from the possession of petitioner no.2 is concerned, admittedly, the same has been made from the embankment of the river, which is an open area, hence, the said recovery cannot be treated to be made from the conscious physical possession of petitioner no.2. A statement has been made in paragraph no.3 of the petitioner that the petitioners are not having any criminal antecedent

Learned APP for the State submits that the recovery of liquor has been made from the possession of the petitioners.

Considering the statement made in paragraph no.7 of the petition that the petitioner no.1 has no concern with the under constructed house from where the recovery of liquor has been made, so far as petitioner no.2 is concerned, since the seizure has been made from the embankment of river in front of



the house of petitioner no.2, hence, prima facie, the recovery does not appear to be made from the possession of the petitioner, let the petitioners above named be released on anticipatory bail for the present provisionally for a period of three months, in the event of arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing one surety to the satisfaction of the learned ADJ-II-cum-Special Judge, Excise Act, Samastipur, in connection with Singhia P.S. Case No.4 of 2020, subject to the conditions as laid down under Section 438(2) of the Cr.P.C

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 petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioners will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned ADJ-II-cum-Special Judge, Excise Act, Samastipur, in



connection with Singhia P.S. Case No.4 of 2020.

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

Accordingly, the present application stands disposed of.

**(Dinesh Kumar Singh, J)**

Ashwini/-

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