

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20234 of 2020

Arising Out of PS. Case No.-735 Year-2019 Thana- NAUBATPUR District- Patna

1. Pintu Singh Son of Nunu Singh Resident of Village - Baraki Kopa, Police Station - Naubatpur, District - Patna.
2. Guddu Singh @ Harish Singh son of Uday Singh Resident of Village - Baraki Kopa, Police Station - Naubatpur, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Parashuram Singh

For the Opposite Party/s : Mr.Mritunjay Kumar Nirala

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 08-07-2020 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 341, 323, 279, 353, 504, 332/34 of the Indian Penal Code and Sections 37(b)(c) and 45 of the Bihar Prohibition and Excise Act, 2016 as amended by Act 8 of 2018 (hereinafter referred to as the 'Act').

The prosecution case, as per the written report of S.I., Omprakash Ram submitted to the Station House Officer, Naubatpur P.S., is to the effect that on 19.11.2019 during vehicle check, the informant came to know that one person has met with accident whereupon he reached on the accident spot and found one person in intoxicated condition in a car, who disclosed his name as Raju Kumar @ Voyal Singh, in the meantime, on a motorcycle, 2-3 persons came and tried to get released Raju Kumar @ Voyal Singh, during that course, one Constable received injury and on seeing the police party, they fled away from the spot and subsequently, the identification of the persons, who tried to get released Raju Kumar @ Voyal Singh, was disclosed by the villagers as Pintu Singh and Guddu Singh, the petitioners.

It is submitted by learned counsel for the petitioners that the police arrested Raju Kumar @ Voyal Singh and when the said arrest of Raju Kumar @ Voyal Singh was



resisted by the petitioners as on mere being found in intoxicated condition, without putting any breath of analyser test, he cannot be arrested, hence, the false accusation has been levelled that the petitioners tried to get Raju Kumar @ Voyal Singh released from the police. Even assuming the accusation to be true, no offence under Sections 37(b) (c) and 45 of the Act is made out against the petitioners. 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 tried to get released the apprehended accused Raju Kumar @ Voyal Singh and they are named in the FIR.

Considering the nature of accusation, the fact that no offence under Sections 37(b)(c) and 45 of the Act is made out against the petitioners and the statement being 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 Special Judge, Excise, Patna in connection with Naubatpur P.S. Case No. 735 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 Special Judge, Excise, Patna in connection with Naubatpur P.S. Case No. 735 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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