

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.19290 of 2020**

Arising Out of PS. Case No.-36 Year-2018 Thana- DEHRI TOWN District- Rohtas

1. ROHIT KUMAR @ ROHIT TIWARI Son of Nand Kishore Tiwari Resident of Village - Bhaluari, P.S.- Indrapuri, District - Rohtas.
2. Chandan Tiwari @ Rahul Tiwari Son of Nand Kishore Tiwari Resident of Village - Bhaluari, P.S.- Indrapuri, District - Rohtas.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Basant Kumar Singh, Advocate

For the Opposite Party/s : Mr.Madan Kumar,APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 05-06-2020 Learned counsel for the petitioner undertakes to remove the defects, if any, within two weeks from start of normal functioning of the Court

Heard learned counsel for the petitioners and Mr. Madan Kumar, learned APP for the State.

The petitioners in the present case are seeking regular bail in connection with Dehri (Indrapuri) P.S. Case No. 36 of 2018 registered for the offences punishable under Sections 30(a) and 34 of Bihar Prohibition & Excise Act, 2016.

Learned counsel for the petitioners submits that as per the allegation made in the first information report lodged on the basis of the self statement of S.I. of Police the three persons were found moving in the direction of Tiwary Mohalla from southern



end to northern end of the village, the informant who was already there on secret information intercepted them, on seeing the Police party the three persons started fleeing away. They were identified as Nand Kishore Tiwary, Rohit Kumar and Chandan Tiwary.

It is submitted that they threw the articles which they were carrying but the villagers assembled there on seeing the police action, in presence of the members of the raiding party articles were seized, the two members of the raiding party who are the SAIP Jawans became witness on the seizure list. The three persons who were identified by the informant had fled away.

Learned counsel submits that it is a case of false implication as nothing has been recovered from the conscious possession of the petitioners and the recovery of the illicit liquor has been shown from a place outside the house of the petitioners. It is submitted that the accused no. 1 Nand Kishore Tiwary has been granted privilege of bail by a learned co-ordinate Bench of this Court vide order dated 08.05.2018 in Cr. Misc. No. 28631 of 2018.

Learned counsel further submits that although with regard to the filing of two anticipatory bail applications, on noticing that correct disclosure were not made while filing the anticipatory bail applications, a learned co-ordinate Bench of this Court had directed an inquiry and thereupon the learned Registrar



General of this Court had directed the legal cell of the High Court to take steps for lodging of the criminal case against the deponent and others in the said case, however, in the present case the petitioners are not concerned with the said case and are presently looking for regular bail in connection with the present case in which co-accused has already been enlarged on bail, the petitioners are in custody since 23.01.2020, investigation against them is complete and hence, they may be released.

Learned APP for the State has though opposed the prayer for regular bail of the petitioners, however, it is not denied that the co-accused similarly situated has been granted regular bail by a learned co-ordinate Bench of this Court as noticed above.

Considering the facts and circumstances of the case wherein as per the allegation there is no recovery of illicit liquor from conscious possession of the petitioners, let the petitioner above named be released on bail in connection with Dehri (Indrapuri) P.S. Case No. 36 of 2018 on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction learned Additional Sessions Judge 2nd-cum-Spl. Judge Excise, Rohtas at Sasaram, subject to the conditions as laid down under Section 437(3) of the Cr.P.C. as under:

(a) that such person shall attend in accordance with the



conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, oft he commission of which he is suspected, and

(c) that such person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that he will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic during the lockdown period. The authorities concerned shall take appropriate steps to ensure such observance prior to and after release of the petitioner.

This application stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

