

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23882 of 2020

Arising Out of PS. Case No.-41 Year-2020 Thana- ROH District- Nawada

-
1. BIRENDRA RAM @ BHIRGU S/O Mahendra Ram Resident of village- Diromobara, P.S. - Roh, District - Nawada.
 2. Birendra Kumar S/O Pradip Ram Resident of village- Diromobara, P.S. - Roh, District - Nawada.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramod Kumar Verma, Adv.

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

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 06-10-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the petitioners and Sri Kumar Uday Pratap, the learned APP for the State.

This is an application for grant of anticipatory bail in connection with Roh P.S. Case No. 41 of 2020 registered for the offence punishable under Section 30(a) of the Bihar and Excise Act, 2016.



The police, upon secret information, is stated to have found a brewery, which was being used for manufacturing illicit country made mahua liquor, from a place situated half kilometre south of Dirmobara village near the orchard. It is further alleged that the village chaukidar had named the petitioners herein and others as the persons, who were running the said brewery. The police force is alleged to have recovered 10 liters of illicit country made mahua liquor and other articles as also raw materials used for making illicit liquor.

The learned counsel for the petitioners has submitted that the petitioners are innocent, they have been falsely implicated in the present case and they are having a clean antecedent. It is further submitted that neither the place from whether the illicit mahua liquor / articles used for making illicit liquor / brewery has been recovered, belongs to the petitioners herein nor the petitioners were present at the alleged place of occurrence, hence, they do not have any complicity in the alleged occurrence. It is further



submitted that no prima facie case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, hence, the bar of Section 76(2) of the Bihar Prohibition and Excise Act, 2016 shall not come in the way of this Court to grant anticipatory bail to the petitioners herein.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioners and taking into account the fact that neither the place from where the illicit mahua liquor / brewery / articles used for making illicit liquor have been recovered belongs to the petitioners herein nor the petitioners have been found / present at the alleged place of occurrence as also they are having a clean antecedent, this Court prima facie finds that no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, as far as consideration of the present bail petition is concerned, hence, the bar under Section 76(2) of



the Bihar Prohibition and Excise Act,, 2016 shall not be an impediment for the purposes of grant of anticipatory bail to the petitioners herein. Consequently, I deem it fit and proper to admit the petitioners to the privilege of anticipatory bail.

Accordingly, the petitioners are directed to be enlarged on anticipatory bail, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II-cum-Special Judge, Nawada in connection with Roh P.S.Case No. 41 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

Ajay/-

U		T	
---	--	---	--

