

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23925 of 2020

Arising Out of PS. Case No.-58 Year-2020 Thana- MADHAURAH District- Saran

1. SADAM MIYA Son of Late Jalil Miya Resident of Village - Khorram, P.S. Marhowrah, District - Saran.
2. Bandhuya Miya @ Kaushar Son of Late Jalil Miya Resident of Village - Khorram, P.S. Marhowrah, District - Saran.
3. Asagar Miya @ Piyar Son of Late Jalil Miya Resident of Village - Khorram, P.S. Marhowrah, District - Saran.
4. Firoj Miya @ Sugiya Son of Late Jalil Miya Resident of Village - Khorram, P.S. Marhowrah, District - Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Singh

For the Opposite Party/s : Mr.Ashok Kumar

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 08-10-2020 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.

Heard the learned counsel for the petitioners and Sri Ashok Kumar, the learned A.P.P. for the State.

This is an application for grant of anticipatory bail in connection with Marhowrah (Gaura O.P.) PS case no. 58 of 2020 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.

The allegation is regarding recovery of 50 liters of



illicit *mahua* liquor from near the hut of the petitioner no. 2.

The learned counsel for the petitioners has submitted that the petitioners are innocent, have been falsely implicated in the present case and are having clean antecedent. It is further submitted that the illicit liquor has been recovered from a place situated near the hut of the petitioner no. 2 and not from inside his hut and moreover, no illicit liquor has been recovered either from the conscious possession of the rest of the petitioners nor from their house, hence no offence is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, thus there is no impediment in grant of anticipatory bail to the petitioners herein.

Having regard to the facts and circumstances of the case, considering the submissions of the learned counsel for the petitioners and taking into account the fact that neither illicit liquor has been recovered from the conscious possession of the petitioners nor from their houses/ huts/ shops, this Court finds that *prima facie*, no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, hence the bar of Section 76(2) of the Act, 2016 shall not come into play in the present case, hence I deem it fit and appropriate to admit the petitioners to the privilege of anticipatory bail. Accordingly, the



abovenamed petitioners, in the event of their arrest or surrender before the court below within a period of six weeks from the date of receipt/ production of a copy of this order, are directed to be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) each with two sureties of the like amount each to the satisfaction of learned 2nd Additional Sessions Judge-cum-Special Judge, Excise, Saran at Chapra in connection with Marhowrah (Gaura O.P.) PS case no. 58 of 2020 subject to the conditions as laid down under Section 438(2) of Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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