

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28754 of 2020

Arising Out of PS. Case No.-112 Year-2020 Thana- SANDESH District- Bhojpur

1. NEPALI PASWAN S/o Chandev Paswan Resident of Village-Sandesh, Police Station-Sandesh, District-Bhojpur at Ara.
2. Dharmendra Kumar Choudhari @ Dharmendar Choudhary S/o Shiv Chandra Chaudhary Resident of Village-Sandesh, Police Station-Sandesh, District-Bhojpur at Ara.
3. Gemi Choudhari @ Gami Choudhary S/o Sagar Choudhari Resident of Village-Sandesh, Police Station-Sandesh, District-Bhojpur at Ara.
4. Sahendar Choudhari S/o Godhan Choudhari Resident of Village-Kajichak, Police Station-Sandesh, District-Bhojpur at Ara.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shiv Prasad Gupta

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

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 02-12-2020 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 Shri Anand Kumar Choudhary, the learned APP, appearing for the State.

The petitioners apprehend their arrest in connection with Sandesh P.S. Case No. 112 of 2020, Excise Case No. 639 of 2020 for the offence punishable under Section



30(A) (D) of the Bihar Prohibition and Excise Act, 2016 and Sections 3, 188, 269 and 270 of the Indian Penal Code.

The police is stated to have recovered 20 litres of illicit liquor from the island situated in between the river.

The learned counsel for the petitioners has submitted that the petitioners are innocent, have been falsely implicated in the present case and are having a clean antecedent. It is further submitted that neither the place from where the illicit liquor has been recovered belongs to the petitioners nor any illicit liquor has been recovered from them, hence, no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016.

The learned APP appearing for the State has vehemently opposed the prayer for anticipatory bail, made by the petitioner.

Having regard to the facts and circumstances of the case, considering the submissions advanced by the learned counsel for the parties and taking into the fact that the place from where the illicit liquor has been recovered does not belong to the petitioners and moreover, no illicit liquor has been recovered from the petitioners, I am of the view that prima facie no case is made out under the provisions of the Bihar



Prohibition and Excise Act, 2016, 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, thus, I deem it fit and appropriate to admit the petitioners to the privilege of anticipatory bail.

Accordingly, in the event of arrest or surrender before the learned court below within a period of four weeks from today, the petitioners above-named, shall be enlarged on anticipatory bail on furnishing bail bonds of Rs. 10,000/- each with two sureties of the like amount each to the satisfaction of the learned ^{4th} Additional Sessions Judge cum Special Judge (Excise), Bhojpur at Ara in connection with Sandesh P.S. Case No. 112 of 2020, Excise Case No. 439 of 2020, subject to the conditions laid down under Section 438(2) of the Cr. P.C.

(Mohit Kumar Shah, J)

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