

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28748 of 2020

Arising Out of PS. Case No.-116 Year-2020 Thana- KAJI MUHAMMADPUR District-
Muzaffarpur

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1. AKASH KUMAR Son of Late Maheshwar Sah @ Late Mangleshwar Sah Resident of Village- Kathipool, P.S.- Kazi Mohammadpur, District- Muzaffarpur.
 2. Hira @ Hira Sah @ Hira Kumar Son of Suresh Sah R/o- Mohalla- Syed Ali, Nayatola, P.S.- Kazi Mohammadpur, District- Muzaffarpur.
 3. Birendra Kumar @ Bigna Son of Ram Naresh Singh R/o Mohalla- Sabji Mandi, New Colony, Naya Tola, P.S.- Kazi Mohammadpur, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Alok Kumar Alok, Adv.

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

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 01-12-2020 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 Sri Ashok Kumar, the learned APP appearing for the State.

This is an application for grant of anticipatory bail in connection with Kazi Mohammadpur



P.S.Case No. 116 of 2020 registered for the offence punishable under Sections 30(a) and 41 of the Bihar Prohibition and Excise Act.

The allegation is regarding the co-accused persons, namely, Dheeraj Kumar and Rohit Kumar having been apprehended by the police and upon search, 750 ML. of illicit liquor was recovered from the possession of the co-accused person, namely, Rohit Kumar and a sum of Rs. 33,082/- was recovered from the possession of the co-accused, Rohit Kumar and upon interrogation, the said co-accused persons had disclosed about the complicity of the petitioners herein in the illicit business of liquor.

The learned counsel for petitioners has submitted that the petitioners are innocent and they have been falsely implicated in the present case. It is further submitted that as far as the petitioner no. 1 and 3 are concerned, they are having clean antecedent, however, the petitioner no. 2 is stated to be an accused in one other case, but he is on bail in the said case.



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 any illicit liquor was recovered from the petitioners nor they are stated to be involved in any other criminal case under the provisions of the Bihar Prohibition and Excise Act, 2016, this Court finds that prima facie, no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016 as against the petitioners herein, hence, the bar of 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 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 Special Judge, Excise Act, Muzaffarpur in connection with Kazi Mohammadpur P.S.Case No. 116 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

Ajay/-

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