

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69975 of 2019

Arising Out of PS. Case No.-147 Year-2019 Thana- BAKHTIYARPUR District- Patna

1. BILLA RAY, Son of Panchi Ray @ Pachhi Ray, According to FIR, Resident of Village - Dedaur (Bariyarpur), P.S.- Bakhtiyarpur, District- Patna but in fact they are resident of Naya Tola, Simri P.s.- Bakhtiyarpur, District- Patna.
2. Yadav @ Yadav Ray, Son of Panchi Ray @ Pachhi Ray, According to FIR, Resident of Village - Dedaur (Bariyarpur), P.S.- Bakhtiyarpur, District- Patna but in fact they are resident of Naya Tola, Simri P.s.- Bakhtiyarpur, District- Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Pandey, Adv.
For the Opposite Party/s : Ms. Meena Singh, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 09-06-2020 The matter has been taken up through virtual Court proceeding.

Heard learned counsel for the petitioners and learned APP for the State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 328, 120B of the I.P.C. and Sections 30(a), 30(c), 30(d) of the Bihar Prohibition and Excise Act, 2016, as amended by Amendment Act 8 of 2018 (hereinafter referred to as 'the Act').

The prosecution case as per the self statement of Manoj Kumar Singh, Inspector -cum-S.H.O., Bakhtiyarpur recorded on 16.05.2019 is to the effect that on 15.05.2019, a



confidential information was received that on the embankment of river, the illicit liquor is being manufactured. Consequently, a raid was laid and 275 litres of country made liquor and other raw materials and equipment for preparing liquor were recovered from the hutment of Rama Rai and Rajesh Rai. The local Chaukidar disclosed the name of the 19 accused persons along with 4-5 unknown who escaped from the scene and it is alleged that the petitioners were one of them.

It is submitted by learned counsel for the petitioners that the place of seizure does not belong to the petitioners. The seizure list reflects that the place of seizure belongs to co-accused, Rama Rai and Rajesh Rai. A statement to that has been made in paragraph no.15 of the petition. Admittedly, the recovery has been made from a semi open area, hence, the recovery cannot be treated to be made from the conscious physical possession of the petitioners. A statement has been made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent.

Learned APP for the State submits that huge quantity of country made liquor and other materials for preparing of such liquor were recovered and the petitioners escaped from the scene.

Considering the fact that the recovery has been made



from the hutment of co-accused persons, the petitioners were not apprehended from the place of seizure, coupled with statement made in paragraph no.3 of the petition that the petitioners are not having any criminal antecedent, let the petitioner above named be released on provisional anticipatory bail for three months, in the event of arrest or surrender before the learned Court below within a period of 6 weeks from today, on furnishing one surety to the satisfaction of the learned Special Judge (Excise), Patna, in connection with Bakhtiyarpur P.S. Case No.147 of 2019 (Special Case No. 4680 of 2019).

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional anticipatory bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail of the like amount each to the satisfaction of the learned Special Judge (Excise), Patna, in connection with Bakhtiyarpur



P.S. Case No.147 of 2019 (Special Case No. 4680 of 2019),
subject to the conditions as laid down under Section 438(2) of
the Code of Criminal Procedure.

The learned Court below will further be at liberty to
extend the period of provisional anticipatory bail further if the
Court proceeding in physical mode will not resume within three
months.

(Dinesh Kumar Singh, J)

Ashwini/-

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

