

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 76033 of 2019

Arising Out of PS. Case No.-113 Year-2019 Thana- KOTWA District- East Champaran

1. ABHAY RAM Son of Jailal Ram Resident of Sobaiya, P.O. and P.S.- Kotwa, Distt - East Champaran.
2. Upendra Ram Son of Jailal Ram Resident of Sobaiya, P.O. and P.S.- Kotwa, Distt - East Champaran.
3. Nitesh Ram Son of Ajay Ram Resident of Village - Mananpur, P.O. and P.S.- Govindganj, Distt - East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

For the Petitioner/s :	Mr.Pravin Kumar
For the Opposite Party/s :	Mr.Sucheta Yadav

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD
ORAL ORDER

3 06-01-2020 Heard learned counsel for the petitioners and learned APP
for the State.

Petitioners apprehend their arrest in connection with Kotwa Police Station (for brevity, *PS*) Case No 113 of 2019 instituted for the offence punishable under Section (s) 341, 323, 324, 307, 504/34 of Indian Penal Code and Section 30 (a) of Bihar Prohibition and Excise Act, 2016.

It is alleged by the informant that the petitioners forcibly were trying to make construction on the informant's land. On objection being raised by the informant, it is alleged that the accused persons have assaulted by means of different weapons. Thereafter, it is alleged that Devendra Ram, Upendra Ram,



Abhay Ram, Ravi Ranjan Ram also indulged in illicit trade of banned liquor and that 200 pieces of country made liquor in pouches have been recovered.

It is submitted that there is subsisting land dispute between the petitioners and the informant. Petitioners have been falsely implicated in this case. The alleged recovery of some country made liquor is from another co-accused Dinesh Ram. In respect of the alleged recoveries made from Dinesh Ram, no case whatsoever is made out against the instant petitioners.

In respect of the other co-accused, it is submitted by the petitioners' counsel that the alleged assault is not corroborated by the injury report wherein there is only one injury found on the person of Sikander.

The learned APP has submitted that one Sikander is said to have suffered injury as a result of assault made by Abhay Ram. The injury report corroborates the said allegation in so far as the petitioner Abhay Ram is concerned. Referring to Section 76 (2) of the Bihar Prohibition & Excise Act, prayer for pre-arrest bail is opposed as being not maintainable.

Considering the rival submissions and Full Bench decision of this Court in the case of *Ram Binay Yadav -Versus-*



State of Bihar, 2019 (2) PLJR 1089, for the limited purposes of grant of anticipatory bail, this Court is inclined to accept the submissions advanced by the petitioners' counsel in respect of petitioners No 2 and 3.

In the facts and circumstances of the case, prayer of petitioners No 2 and 3 for grant of anticipatory bail is allowed. In the event of surrender/arrest of the petitioners No 2 and 3, named above, before the Court below, within four (04) weeks from today, they shall be released on bail on each of them furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge IX, Motihari, East Champaran in connection with Kotwa PS Case No 113 of 2019 subject to the conditions as laid down under Section 438 (2) of Criminal Procedure Code and also the following conditions:-

(i) That one of the bailors will be a close relative of petitioners No 2 and 3 who will give an affidavit giving genealogy as to how he is related with petitioners No 2 and 3. The bailor will also undertake to inform the Court if there is any change in the address of petitioners No 2 and 3.

(ii) That petitioners No 2 and 3 will be well represented on each date and if they fail to do so on two consecutive dates,



their bail bond will be liable to be cancelled.

In view of specific allegation of assault by means of *Dab* on petitioner No 1 which has been corroborated by the injury report, this Court does not consider it a fit case for grant of anticipatory bail to petitioner No 1 Abhay Ram. Prayer for anticipatory bail made on behalf of petitioner No 1 Abhay Ram is hereby rejected.

Rejection of prayer for anticipatory bail of petitioner No 1 Abhay Ram, however, would not prejudice the prayer for regular bail in the event of his arrest or surrender.

(Madhuresh Prasad, J)

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