

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78180 of 2019

Arising Out of PS. Case No.-90 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Muzaffarpur

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1. ANIL KUMAR CHOUDHARY @ ANIL CHOUDHARY @ MANISH, Son of Ram Choudhary, Resident of Village- Siho, P.S.- Sakra, District- Muzaffarpur (Bihar).
 2. Chandan Choudhary @ Chandan Kumar, Son of Late Arvind Choudhary Resident of Village- Siho, P.S.- Sakra, District- Muzaffarpur (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kumar Vikram, Adv.
For the Opposite Party/s : Mr. Braj Kishore Pd., APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 26-06-2020 Heard learned counsel for the petitioners and learned
APP for the State.

The matter has been taken up through virtual Court proceeding.

It appears that a bench of this Court vide order dated 02.12.2019, called for case diary of Excise Special Case No. 90 of 2019, but in excise matter, prosecution report is being submitted.

In the circumstances, the matter is being heard on the basis of materials available on record and the order dated 02.12.2019 stands modified.

The petitioners have preferred the present application for grant of anticipatory bail in a case registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, as



amended by the Amendment Act 8 of 2018.

The prosecution case as per the prosecution report of S.I., Excise, Muzaffarpur submitted before the learned Special Judge, Excise Act, Muzaffarpur is to the effect that on information that the petitioners along with co-accused, Arun Mahto have stored liquor, consequently, a raid was laid and from the Khadi Gramudyog locked godown's toilet total, 174.20 litres of Indian Made Foreign Liquor were recovered, leading to registration of the present case.

It is submitted by learned counsel for the petitioners that the recovery of liquor has been made from the toilet of Khadi Gramudyog's godown and the petitioner has no concern with the same, hence, the recovery cannot be treated from the possession of the petitioner. A statement to that effect has been made in paragraph no.13 of the petition, which reads as under :-

“That by merely perusing the seizure list it has transpired that the place of seizure is neither the dwelling house nor the property of present petitioners as the seized article has been recovered from abounded campus that too from open toilet.”

It is further submitted that a further statement has been made in paragraph no. 3 of the petition to the effect that though petitioner no.1 is not having any criminal antecedent, but petitioner no.2 is accused in three other cases, in which, he is on bail.



Learned APP for the State submits that on information, the petitioners have stored the liquor, the recovery of liquor has been made . However, learned APP for the State does not controvert this fact that the recovery of said liquor has been made from a toilet of Khadi Gramudyog and the petitioners have denied to have any connection with the place of seizure.

Considering the fact that the recovery has been made from the place which has been abandoned by the petitioners and the said fact has not been controverted by learned counsel for the, let the petitioners above named be released on anticipatory bail for the present provisionally for a period of three months, in the even to arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing one surety to the satisfaction of the learned Special Judge, Excise, Muzaffarpur, in connection with Excise Special Case No. 90 of 2019, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. .

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 petitioners which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional anticipatory bail of the petitioners will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) each 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, Muzaffarpur, in connection with Excise Special Case No. 90 of 2019.

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 in next three months.

(Dinesh Kumar Singh, J)

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