

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No. 39581 of 2020

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1. Sunil Kumar @ Pradeep Kumar Singh age 29 years (Male) son of Sri Ram Rajsingh-Resident of village Deoran P.S.-Sandesh District-Bhojpur
 2. Bidhayak Yadav @ Harsh Yadav age about 30 year (Male) son of Sri Dasai Yadav resident of village Deora Nasrathpur P.S. Sandesh District-Bhojpur
 3. J.P. Yadav @ Syambahadur Yadav age about 32 years (Male)son of late Raj Ram Singh resident of village Deora P.S.

-----Petitioners

Versus

The State of Bihar

-----Opposite Party

Appearance :

For the Petitioner/s : Mr. Suraj Bansh Roy, Adv.
For the State : Ms. Anita Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

2 02-06-2021 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 the learned A.P.P. for the State, Ms. Anita



Kumari Singh.

This is an application for grant of anticipatory bail in connection with Sandesh P.S. Case No. 129 of 2020 registered for the offence punishable under Section 30(A) of the Bihar Prohibition and Exercise Act, 2016.

The allegation is regarding recovery of illicit mahua wine along with other articles used in manufacture of the same from the banks of river Sone. It is also alleged that 60 liters of illicit country made liquor was recovered, however, the accused persons had managed to escape.

The learned counsel for the petitioners has submitted that the petitioners are innocent, they have been falsely implicated in the present case and are having a clean antecedent. The learned counsel for the petitioners has further submitted that neither the illicit liquor has been recovered from the conscious possession of the petitioners nor from their houses and in fact, the same has



been recovered from the river bank, hence, no offence is made out under the provisions of the Bihar Prohibition and Excise Act. 2016. The learned counsel for the petitioners has also submitted that similarly situated co-accused persons have already been granted bail by a coordinate Bench of this Court vide order dated 20.01.2021 passed in Criminal Miscellaneous No. 30575 of 2020.

Per contra, the learned APP for the State, Ms. Anita Kumari Singh, 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 materials available on record as also the fact that the illicit liquor has been recovered from the river bank and has not been recovered either from the conscious possession of the petitioners or from their houses, this Court finds that prima facie, no case is made out under



the provisions of the Bihar Prohibition and Excise Act, 2016, as far as the present bail petition is concerned, 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 petitioner, thus, I deem it fit and proper to enlarge the petitioners above named, in the event of their arrest or surrender before the court below within a period of eight weeks from today, on anticipatory bail 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, Bhojpur at Ara, in connection with Sadash P.S. Case No. 129 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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