

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 36653 of 2020

Arising Out of PS Case No.-144 Year-2019 Thana- BISHANPUR District- Darbhanga

1. Anil Yadav @ Anil Kumar, aged about 20 years, Male, Son of Vijay Yadav.
2. Nand Kishore Yadav @ Sanu Yadav, aged about 33 years, Male, Son of Ganesh Yadav.
3. Manoj Yadav, aged about 30 years, Male.
4. Ashok Yadav, aged about 35 years, Male.
Both are Sons of Sattan Yadav.
All are residents of Village- Nayanagar Dilahi, Police Station- Bishanpur,
District- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Surya Narayan Yadav, Advocate
For the State	:	Mr. Anand Mohan Prasad Mehta, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 02-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Surya Narayan Yadav, learned counsel for the petitioners and Mr. Anand Mohan Prasad Mehta, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioners apprehend arrest in connection with Bishanpur PS Case No. 144 of 2019 dated 31.12.2019, instituted under Sections 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act').



4. The allegation against the petitioners is that when the police on information reached the village, they were seen running away and the sniffer dog of the police led the raiding party to the orchard of co-accused Bikau Yadav from where there was recovery of various types of liquor totalling 500.34 litres. Learned counsel submitted that as per the FIR itself, when the police reached the village, it is said that the petitioners were seen running away and thereafter, when recovery was made from the orchard of co-accused Bikau Yadav, it is stated that the *Chowkidar* and the locals had identified the petitioners that they were the ones who were running away and further that the petitioners were also in the illegal trade of liquor.

5. Learned counsel for the petitioners submitted that they have been falsely implicated as only on the basis of such vague identification by the *Chowkidar* and villagers, who have also not been identified, the petitioners have been made accused. It was submitted that there is no recovery from any property of the petitioners and they have no criminal antecedent. Learned counsel submitted that due to local village politics, they have been made accused at the behest of inimical parties.

6. Learned APP submitted that the *Chowkidar* and villagers have identified the petitioners as the persons who were



running away on seeing the police party. However, he could not controvert that the petitioners have not been said to have been near the orchard of co-accused Bikau Yadav or were seen running away from that orchard.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned 2nd Additional Sessions Judge-cum-Special Judge (Excise Act), Darbhanga in Bishanpur PS Case No. 144 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioners, (ii) that the petitioners and the bailors shall execute bond with regard to good behaviour of the petitioners, and (iii) that the petitioners shall also give an undertaking to the Court that he shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of their bail bonds. The



petitioners shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of their bail bonds.

8. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioners, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioners.

9. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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