

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38498 of 2020
Arising out of P.S. Case No.113 year-2020, Thana- Belaganj, District
Gaya.

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1. Jairam Yadav, aged about 30 years son of Rajdev Yadav.
2. Jitendar Yadav aged about 28 years son of Chamru Yadav
3. Uday Yadav aged about 40 years son of Ganeshi Yadav.
All residents of Village- Dalli Bigha, Police Station Belgaganj in the
District of Gaya.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opp. Party/s

Appearance :

For the Petitioner/s : Mr. Braj Nandan Kumar Tiwary, Adv.

For the Opp. Party/s : Mr. Anand Mohan Pd. Mehta, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 31-05-2021

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 Shri Anand Mohan Prasad Mehta, the learned APP appearing for the State.

The petitioners apprehend their arrest in connection with Belaganj P.S. Case No. 113 of 2020 for the offence punishable under Sections 30(a) of Excise Act.

The allegation is regarding recovery of 8 litres of illicit Mahua liquor from near the Falgu river situated at village- Dalli Bigha.



The learned counsel for the petitioners has submitted that the petitioners are innocent, 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 Mahua liquor has been recovered from the possession of the petitioner nor from their house and in fact the same has been recovered from an open space situated near the Falgu river, hence no case is made out against the petitioners herein under the provisions of the Bihar Prohibition and Excise Act, 2016. It is further submitted that the entire seizure stands vitiated on account of non-compliance of the provisions contained in Section 100 Cr. P.C.

Mr. Anand Mohan Prasad Mehta, the learned APP appearing for the State has vehemently opposed the prayer for anticipatory bail, made by the petitioner.

Having regard to the facts and circumstances of the case, considering the submissions advanced by the learned counsel for the parties and taking into account the materials available on record, it is apparent that no recovery has been made either from the house of the petitioners or from their field, hence this Court finds that prima facie no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, as far



of the present bail petition is

concerned, thus 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 petitioners, consequently, I deem it fit and proper to admit the petitioners to the privilege of anticipatory bail.

Accordingly, in the event of arrest or surrender before the learned court below within a period of four weeks from today, the petitioners, above-named, shall be enlarged on anticipatory bail on furnishing bail bonds of Rs. 10,000/- each with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise, Gaya in connection with Belaganj P.S. Case No. 113 of 2020, subject to the conditions laid down under Section 438(2) of the Cr. P.C.

(Mohit Kumar Shah, J)

Tiwary/-

