

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 39057 of 2020

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1. Bidal Sahni, (male), aged about 28 years, son of Ramanand Sahni @ Ramanand Malah, resident of village-Bishunpura (Balua Tola)

2. Biresh Sahni (Male), aged about 27 years, son of Kamdeo Sahni, resident of village-Naya Tola, Bhathwa

3. Jiut Sahni @ Jiyut Sahni (male), aged about 25 years, son of Mati Sahni, resident of village-Naya Tola, Bhathwa, all are of Police Station-Jadipur (Yadapur), District-Gopalganj

----- Petitioner

Versus

The State of Bihar

----- Opposite Parties

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Appearance:-

For the Petitioner:- Mr. Lokesh Kumar Singh, Advocate

For the State :- Dr.Ajeet Kumar, APP

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CORAM:HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

2. 01.06.2021

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 Dr. Ajeet Kumar, learned A.P.P. for the State.

The petitioners apprehend their arrest in connection with Yadavpur (Jadopur) P.S. Case No. 134 of 2019 for the offence registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The allegation is regarding recovery of 152 litres of illicit wine from near the river bank.

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 wine has been recovered from the conscious possession of the petitioners nor from their

house and the same has been recovered from the river bank, thus no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016.

Per contra, the learned A.P.P. for the State Dr. Ajeet Kumar 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, this Court finds that since the illicit wine has neither been recovered from the conscious possession of the petitioners nor from their house or their premises, 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, thus the bar under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 shall not be an impediment for grant of anticipatory bail to the petitioners herein, consequently, I deem it fit and proper to admit the petitioners to the privilege of anticipatory bail.

Accordingly, the petitioners, above named, are directed to be released on anticipatory bail in the event of their arrest/surrender before the court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned IInd Additional Sessions Judge-cum-Special Judge, Excise, Gopalganj in connection with Yadavpur (Jadipur) P.S. Case No. 134 of 2019 subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

S.Sb/-