

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39063 of 2020

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1. Kiran Devi, about 35 Y/F, wife of Sri Mahangu Ram

2. Mahangu Ram, about 40 Y/M, son of Late Gopal Ram,

Both residents of village-Chhawani, Tarabagh, Ward No. 1,

P.S. Bettiah Muffasil (Banuchhapar), District-West

Champaran.

----- Petitioner

Versus

The State of Bihar

----- Opposite Parties

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Appearance:-

For the Petitioner:- Mr. Umesh Chandra Verma, 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.

At the outset, the learned counsel for the petitioners submits that the petitioner no. 1 of this case namely Kiran Devi has already been arrested, hence the present petition is not being pressed qua the petitioner no. 1. Accordingly, the present petition qua the petitioner no. 1 stands dismissed as not pressed.

The petitioner no. 2 apprehend his arrest in connection with Bettiah Muffasil (Banuchhapar) P.S. Case No. 248 of 2020 for the offence registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The allegation is regarding recovery of seven litres of illicit liquor from the house of the petitioners.

The learned counsel for the petitioners has submitted that the petitioner no. 2 is innocent, and has been

falsely implicated in the present case. It is further submitted by referring to paragraph no. 6 of the present petition that the house from where the illicit liquor has been recovered, does not belong to the petitioners.

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 fact that the illicit liquor has been alleged to have been recovered from the house of the petitioners, this Court finds that the bar under section 76(2) of the Bihar Prohibition and Excise Act, 2016 would come into play and would preclude this Court from grant of anticipatory bail to the petitioner herein, hence the present petition stands dismissed as not maintainable..

Nonetheless, considering the fact that the wife of the petitioner has already been arrested and trivial quantity of illicit liquor has been recovered from the house of the

petitioners, this Court deems it fit and proper to direct the learned court below to consider the case of the petitioners for grant of regular bail, as and when the same is filed, sympathetically and dispose it on the very same day of filing of the same.

The petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

S.Sb/-