

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3964 of 2020

Arising Out of PS. Case No.-193 Year-2019 Thana- BAKHTIYARPUR District- Patna

1. DILIP RAY S/o Langheshar Ray Resident of Chiraiya, P.S.- Bakhtiyarpur, District- Patna but in fact they are resident of Naya Tola, P.S.- Bakhtiyarpur, District- Patna
2. Ramesh Ray S/o Singheshwar Resident of Chiraiya, P.S.- Bakhtiyarpur, District- Patna but in fact they are resident of Naya Tola, P.S.- Bakhtiyarpur, District- Patna
3. Jathahu Ray @ Jathu Ray S/o Devan Rai Resident of Chiraiya, P.S.- Bakhtiyarpur, District- Patna but in fact they are resident of Naya Tola, P.S.- Bakhtiyarpur, District- Patna
4. Bimal Rai S/o Brambha Rai Resident of Chiraiya, P.S.- Bakhtiyarpur, District- Patna but in fact they are resident of Naya Tola, P.S.- Bakhtiyarpur, District- Patna

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar Pandey, Advocate
For the Opposite Party/s : Ms.Sangeeta Sharma, APP

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

5 22-10-2021 Heard the learned counsel for the petitioners and

learned APP for the State through video conferencing.

The petitioners apprehend their arrest for the offences alleged under Sections 328 and 120(B) of the Indian Penal Code and Sections 30(a), 30(c) and 30(d) of the Bihar Prohibition and Excise Act, 2016, registered in connection with Bakhtiyarpur P.S.Case No. 193 of 2019 (Special Case No.5373 of 2019).

The allegations against the petitioners are they were



manufacturing the country-made liquor in Diara. The police raid was conducted and the petitioners and other co-accused persons succeeded in fleeing from the place of occurrence by a boat.

Learned counsel for the petitioners has submitted that they are innocent as they were not present at the spot and have falsely been implicated in this case. He has also submitted that some other accused persons have been granted anticipatory bail by a coordinate bench of this Court.

Section 76(2) of the Bihar Prohibition and Excise Act, 2016 makes an explicit embargo on entertaining the application under Section 438 of the Cr.P.C.

Since the provision of Section 438 of the Cr.P.C. is not applicable in respect of offences under the Bihar Prohibition and Excise Act, 2016, as such, this anticipatory bail application is dismissed as not maintainable.

If the petitioners surrender and seek regular bail before the court below, the court below shall consider the same on its own merit.

(Nawneet Kumar Pandey, J)

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