

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3305 of 2022

Arising Out of PS. Case No.-811 Year-2021 Thana- FORBESGANJ District- Araria

1. KUNTI DEVI W/o Ramesh Tatma R/o Village- Amhara Lachmania Tola,
P.O.- Amhara, P.S.- Forbesganj, District- Araria.
2. Ramesh Tatma S/o Kamal Tatma R/o Village- Amhara Lachmania Tola,
P.O.- Amhara, P.S.- Forbesganj, District- Araria.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms.Sarita Bajaj, Advocate

For the Opposite Party/s : Ms.Veena Kumari Jaiswal, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 07-06-2022 Heard the learned counsel for the petitioners and
the learned A.P.P. for the State.

This is an application for grant of anticipatory bail
in connection with Forbesganj PS case no. 811 of 2021
registered for the offences punishable under Sections 30(a) of
Bihar Prohibition and Excise Act, 2016 (hereinafter referred to
as the Act. 2016).

The allegation is regarding the informant and
other police officials having conducted a raid in the house of the
petitioners, whereupon 12 liters of countrymade liquor was
recovered and upon interrogation of a child present there, it
transpired that the petitioners were engaged in selling of illicit



countrymade liquor.

The learned counsel for the petitioners has submitted that the petitioners are innocent, have been falsely implicated in the present case and are having clean antecedent. The learned counsel for the petitioners, by referring to the F.I.R., has submitted that the provisions contained in Section 100 Cr.P.C. has not been complied with, inasmuch as no seizure list was prepared at the place of occurrence and instead, it has been stated in the F.I.R. that the recovered countrymade liquor along with the seizure list was taken to the house of one co-accused person namely Upendra Mandal and subsequently, witnesses were arranged, who had signed the seizure list near the house of the co-accused person namely Upendra Mandal. It is also submitted that the co-accused person namely Upendra Mandal has already been granted anticipatory bail by a co-ordinate Bench of this Court vide order dated 10.12.2021, passed in Cr. Misc. no. 65560 of 2021. Lastly, it is submitted that neither the illicit liquor has been recovered from the conscious possession of the petitioners nor the petitioners were present at the place from where the alleged illicit liquor is stated to have been recovered and moreover, admittedly, no witnesses had signed the seizure list at the house of the petitioners resulting in



violation of the provisions contained under Section 100 Cr.P.C. as also leading to the inference that no case is made out under the provisions of the Bihar Prohibition and Excise Act, 2016, thus it is submitted that there is no impediment in considering the case of the petitioners for grant of anticipatory bail.

Per contra, the learned APP for the State has vehemently opposed the prayer of bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials available on record as also considering the fact that there is no compliance of Section 100 of Cr.P.C. apart from the fact that the circumstances of the present case goes to show that *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, this Court finds that the bar under Section 76 (2) of the Act, 2016 shall not be an impediment for the purposes of grant of anticipatory bail to the petitioners herein. Thus, I deem it fit and appropriate to admit the petitioners to the privilege of anticipatory bail.

Accordingly, the abovenamed petitioners, in the event of their arrest or surrender before the court below within a



period of six weeks from the date of receipt/ production of a copy of this order, are directed to be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge II-cum-Excise Court, Araria in connection with Forbesganj PS case no. 811 of 2021, subject to the conditions as laid down under Section 438(2) of Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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