

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20751 of 2022

Arising Out of PS. Case No.-85 Year-2021 Thana- DELHA District- Gaya

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1. BINDU DEVI WIFE OF KAPIL YADAV R/O MOHALLA- CHOTKI NAWADA, P.S.- DELHA, DISTRICT- GAYA
 2. BANTI KUMAR SON OF KAPIL YADAV R/O MOHALLA- CHOTKI NAWADA, P.S.- DELHA, DISTRICT- GAYA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhinay Raj, Advocate

For the Opposite Party/s : Mr.Kumar Ranjit Ranjan, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 06-06-2022 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 Delha PS case no. 85 of 2021 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

The allegation is regarding the informant having received secret information to the effect that the accused persons including the petitioners herein were engaging in selling illicit wine, whereafter raid was conducted in village Chhotki Nawada and from a cowshed, approx. 18 liters of foreign wine as well as 50 liters of countrymade liquor were recovered and the accused persons are stated to have been identified by the local villagers.



The learned Senior counsel for the petitioners has submitted that the petitioners are innocent and have been falsely implicated in the present case. The learned Senior counsel for the petitioners, by referring to paragraph no. 6 of the present petition, has further submitted that the cowshed from where the illicit liquor has been recovered does not belong to the petitioners. It is also submitted that neither the petitioners have been arrested from the spot nor the place in question from where the illicit liquor has been recovered belongs to the petitioners nor any illicit liquor has been recovered from the conscious possession of the petitioners, hence no offence is made out under the provisions of the Bihar Prohibition and Excise Act, 2016.

Per contra, the learned A.P.P. for the State 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 parties and taking into account the materials available on record as also considering the fact that neither any illicit liquor has been recovered from the conscious possession of the petitioners nor the place from where the said illicit liquor has been recovered belongs to the petitioners nor the petitioners have been arrested from the spot, I find 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, thus the bar under Section 76(2) of the Act, 2016 shall not be an impediment for the purpose of grant of anticipatory bail to the petitioners herein, hence I deem it fit and appropriate 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/- (Rs. Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No. 1, Gaya in connection with Delha PS case no. 85 of 2021, subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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