

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40263 of 2022

Arising Out of PS. Case No.-544 Year-2020 Thana- DIGHA District- Patna

1. SUKHMATI DEVI W/o Sri Sunil Hembram R/o village- Digha Chauhatta, Danapur, P.S.- Digha, District- Patna, Bihar
2. LAXAN RAY @ LAKSHAN RAY S/o Sri Ramadhar Rai R/o village- Bind Toli, Jhoparpatti, Danapur, P.S.- Digha, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kumar Kaushlendra

For the Opposite Party/s : Ms.Sucheta Yadav

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

4 24-01-2023 Learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Heard learned counsel for the petitioners as well as the learned APP for the State.

The petitioners apprehends their arrest in connection with Digha P.S. Case No. 544 of 2020, G.R. Case No. 5955 of 2020, registered for the offences punishable under Sections 30(a)(c)(d) of the Bihar Prohibition and Amendment Excise Act, 2018.

As per allegation, one person was arrested with 20 litres of illegal wine and he disclosed that at the instance of the petitioner, he was engaged in that act.

The learned counsel for the petitioner has submitted that the petitioners are innocent and have falsely been implicated in this



case. Their names have figured only on confessional statement of co-accused.

Be that as it may, 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., as such, this anticipatory bail application is not maintainable.

If the petitioners surrender before the court below and make a prayer for regular bail, that shall be disposed of on the same day, without being prejudiced by this order.

The learned court below may take notice of the fact that the petitioners were not arrested at the spot and their name were figured only on the confessional statement of co-accused.

With these observations, the criminal miscellaneous petition is disposed of.

Office shall ensure that all defects are removed by the petitioners within the stipulated time provided in para-1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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