

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45542 of 2023

Arising Out of PS. Case No.-193 Year-2023 Thana- SHAHPUR PATORI District- Samastipur

1. Vaidhnath Kumar @ Baijnath Ray @ Vajjnath Kumar Son of Devendra Ray @ Yaduvansh Roy Resident Of Village/Mohalla- Uttri Dhamaun, Ps- Shahpur Patori, Dist- Samastipur
 2. Nitish Kumar Son Of Vinay Ray @ Vijay Ray Resident Of Village/Mohalla- Uttri Dhamaun, Ps- Shahpur Patori, Dist- Samastipur
 3. Madhu Kumar Son Of Umesh Ray @ Bhulli Ray Resident Of Village/Mohalla- Uttri Dhamaun, Ps- Shahpur Patori, Dist- Samastipur
- Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kedar Jha, Advocate
For the Opposite Party/s : Mr.Nitya Nand Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

- 2 04-08-2023 1. Heard the learned counsel for the petitioners and learned APP for the State.
2. This is an application for grant of anticipatory bail in connection with Shahpur Patori P.S. Case No.193 of 2023, registered for offence under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.
3. The allegation is regarding recovery of 580 litres of illicit liquor from near the steps of a temple, situated near river Ganges. It is further



alleged that on secret information, it has transpired that the accused persons, including the petitioners herein, were engaged in the business of illicit liquor.

4. The learned counsel for the petitioners has submitted that the petitioners are innocent and they have been falsely implicated in the present case. The learned counsel for the petitioners has further submitted that neither any illicit liquor has been recovered from the conscious possession of the petitioners nor from their house, hence they are not having any complicity in the alleged offence, thus the provisions of the Bihar Prohibition and Excise Act, 2016 are not attracted in the present case.

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

6. 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 house of the petitioners nor they have been apprehended from the spot, *prima facie* this Court finds that no case is made out for the offences punishable under the provisions of the Bihar Prohibition and Excise Act, 2016, hence the bar under Section 76(2) of the Bihar Prohibition and Excise 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 proper to admit the petitioners to the privilege of anticipatory bail.

7. Accordingly, the above named petitioners are directed to be enlarged on anticipatory bail, in the event of their arrest or surrender before the court below, within a period of four weeks from the date of receipt/production of a copy of this order, on furnishing bail bond of Rs.10,000/- (rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned 2nd Special Judge (Excise), Samastipur in connection with Shahpur Patori P.S. Case No.193



of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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