

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65223 of 2023

Arising Out of PS. Case No.-161 Year-2023 Thana- CHIRAIYA District- East Champaran

1. Dinesh Rai S/O Horil Rai Village- Mohdipur, P.S. Chiraiya, Dist- East Champaran
2. Mukesh Rai Son Of Chhathu Rai Village- Mohdipur, P.S. Chiraiya, Dist- East Champaran

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manjeet Kumar Mishra

For the Opposite Party/s : Mr. Lalan Kumar

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 06-11-2023 Heard learned counsel for the petitioners and learned A.P.P. for the State.

2. The petitioners are apprehending their arrest in connection with Chiraiya P.S. Case No. 161/2023 registered for the offences punishable under Sections 272, 273 of the I.P.C and Section 30(a) of the Bihar Prohibition and Excise Act, 2018.

3. As per prosecution case, informant along with the police officials seized 80 litres of country made liquor from a bamboo orchard and mango orchard at village Mohaddipur. It is alleged that local *chowkidar* disclosed the name of the petitioners who fled away from the place of occurrence.

4. Learned counsel for the petitioners submits that



the place from where the alleged recovery has been made, is an open place and is accessible to all. It is further submitted that petitioners are not the owners of either the mango orchard or the bamboo orchard. The petitioners are innocent and have committed no offence as alleged in the FIR and they have falsely been implicated in this case. No incriminating materials have been recovered from the conscious possession of the petitioners. It is further submitted that petitioners have not been found at the place of occurrence and the whole prosecution case is absurd, improbable and seems to be fully concocted and manipulated. Petitioners bear no criminal antecedent. In the light of the aforesaid facts and circumstances, no case is made out against the petitioners under the provisions of Bihar Prohibition and Excise Act.

5. The learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners.

6. Considering the facts and circumstances of the case, keeping in view clean antecedent of petitioners argument advanced on behalf of both sides and also taking into consideration the material available on record, the petitioners above-named, in the event of their arrest or surrender before the learned trial court within a period of six weeks from today, be



released on anticipatory bail 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 Exclusive Special Excise Court No. 1, East Champaran at Motihari in connection with Chiraiya P.S. Case No. 161/2023, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

7. This application stands allowed.

(Alok Kumar Pandey, J)

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