

(2020) 11 JH CK 0066
In the Jharkhand High Court
Case No : A. B. A. No. 5991 Of 2020

Bayar Singh Munda And Ors

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 27-11-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438, 438(2)
Indian Penal Code, 1860 — Section 272, 273, 290
Rajasthan Excise Rules, 1956 — Rule 47(A)

Citation : (2020) 11 JH CK 0066

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Abhishek Kr. Dubey, Md. Hatim

Judgement

1. Heard learned counsel for the Petitioners and learned A.P.P for the State.
2. Learned counsel for the petitioners submits that defect nos. v(e), ix (v) & (vi) relating to filing of court fees have been removed by filing it in the drop box yesterday. Rest of the surviving defects, indicated as under, shall be removed within two weeks.
 - iv. Authentication fee due on the copy of Trial Court judgment - Rs. 40/- wanting.
 - ix. (i) Age of the petitioner in page no. 1 and vak. differs.
 - (ii) Place of learned pending Court may be corrected in para-1 and payer para.
 - (iii) Designation of learned Court in para-13 may be verified and corrected.
 - (iv) Duly certified T/c of page-18 & 19 may be filed.
 - (vii) District name of deponent may be corrected in affidavit.
3. These petitioners seek privilege of anticipatory bail in terms of section 438 of Cr. P.C in connection with Chowka P.S. Case No. 33/2020 instituted

under sections 272/273/290 of the Indian Penal Code and section 47(A) of Excise Act and pending before the Court of learned S.D.J.M, Seraikela-

Kharswan.

4. Learned counsel for the petitioners submits that the Informant is the probationer Sub Inspector of Police at Chowka Police Station who has alleged

that on secret information, he conducted raid in village Balidih under Chowka P.S. and recovered 200 litres of Mahua liquor while 600 kg Java Mahua

was destroyed. Three persons fled away on seeing the police who were identified as these petitioners. On this allegation, FIR was instituted under the

aforesaid sections. Learned counsel for the petitioners submits that there is no source of identification of these petitioners by any independent witness

and it is not expected that a probationer Sub Inspector of Police could be able to identify the strangers in a village whom he has no knowledge of

having seen it before, as indicated in the body of the FIR. Nothing has been recovered from the premises of these petitioners or their possession.

These petitioners are innocent and they have no criminal antecedent, as per statement made in para-14 of the petition. They would suffer unnecessary

incarceration if not granted protection under section 438 of the Cr. P.C. They are willing to abide by the conditions as may be imposed for grant of

anticipatory bail.

5. Learned Additional Public Prosecutor has opposed the prayer. He submits that the Informant is Sub Inspector of Police of the same police station

Chowka and on his identification, FIR has been instituted against these three accused persons indulging in manufacture of country made liquor from

Mahua which is also not in small quantity and 600 kg of Java Mahua has also been destroyed. This shows that these petitioners are engaged in illegal

manufacturing of country made liquor from Mahua. Therefore, they may be denied the privilege of anticipatory bail.

6. I have considered the submissions of learned counsel for the parties and taken note of the facts and circumstances above. Having regard to the

aforesaid circumstances that nothing has been recovered from the premises of these petitioners or their possession and that FIR does not disclose the

source of identification of these petitioners, I am inclined to grant anticipatory bail to these petitioners. Let the petitioners namely, Bayar Singh Munda,

Doman Singh Munda and Bara Manjhi, in the event of their surrender or arrest

within a period of four weeks, be released on bail on furnishing bail

bonds of Rs. 10,000/- (Rupees ten thousand) each with two sureties of the like amount each, to the satisfaction of learned S.D.J.M, Seraikela-

Kharswan in connection with Chowka P.S. Case No. 33/2020, subject to the condition as laid down under section 438(2) of the Cr. P.C. Petitioners

shall cooperate in the investigation and petitioners and their bailors shall not change their address or mobile no. without prior permission of the learned

Trial Court.