

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7023 of 2020

Arising Out of PS. Case No.-241 Year-2019 Thana- SANGRAMPUR District- East
Champaran

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1. Manoj Yadav, Son of Late Nemi Yadav, Resident of Village - Indragachi, P.S.- Sangrampur, District - East Champaran.
 2. Sanoj Yadav, Son of Late Nemi Yadav, Resident of Village - Indragachi, P.S.- Sangrampur, District - East Champaran.
 3. Wakil Mahto, Son of Late Ramsurat Mahto, Resident of Village - Indragachi, P.S.- Sangrampur, District - East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Rashmi Jha, Advocate

For the Opposite Party/s : Smt. Veena Rani Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 25-06-2020 Since as of now the Courts have not resumed normal physical hearing, the matter has been listed today for consideration through video conferencing.

The learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings from their homes, all with the aid of audio visual technology.

Heard learned counsel for the petitioners and the learned APP for the State.

The petitioners are apprehending their arrest in connection with Sangrampur P.S. Case No.241 of 2019 for the



offence punishable under Sections 30(a), 30(d), 35, 38 of the Bihar Prohibition and Excise Act, 2016.

Information is by the Sub-Inspector leading to lodging of the present case.

The allegation is that on secret information, the informant (Sub-Inspector) proceeded to the sugarcane field of Kasim Mian. 4-5 persons succeeded in fleeing away. Their identification have subsequently been made by the Choukidar, leading to the petitioners' implication as three of those who allegedly fled away.

Petitioners' counsel submits that from a bare perusal of the seizure memo, it is apparent that the seizure is from the sugarcane field of one Kasim Mian. The petitioners' implication is merely on alleged identification by village Choukidar. Neither recovery has been made from them nor they have been apprehended at the spot. Recovery is from an open field having general access. The circumstances are such that false implication of the petitioners cannot be ruled out. In fact, no case whatsoever has been made out under various provisions of the Bihar Prohibition & Excise Act under which the case has been lodged.

Learned APP for the State referring to the provisions



of pre-arrest bail in the statute has opposed the prayer for bail.

Considering the rival submissions and the facts, this Court, in view of the parameters for considering pre-arrest bail laid down by a Full Bench of this Court in the case of ***Ram Vinay Yadav vs. State of Bihar***, reported in ***2019(2) PLJR 1089(FB)***, is inclined to accept the submissions advanced by the petitioners' counsel for the limited purpose of grant of pre-arrest bail. The petitioners' prayer for anticipatory bail is allowed.

Accordingly, let the petitioners, above named, in the event of their arrest or surrender before the court below within a period of four weeks from today, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned 9th Additional Sessions Judge cum Special Judge, Excise, Motihari, East Champaran, in connection Sangrampur P.S. Case No.241 of 2019, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also subject to the following conditions:

(i) That one of the bailors of each of the petitioners will be a close relative of the petitioners who will give an affidavit giving genealogy as to how he is related with the petitioners concerned. The bailors will also undertake to inform the court if there is any change in the address of the



petitioners.

(ii) That the petitioners will be well represented on each date and if they fail to do so on two consecutive dates, their bail bonds will be liable to be cancelled.

(Madhuresh Prasad, J)

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