

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8645 of 2020

Arising Out of PS. Case No.-125 Year-2019 Thana- CHAKAI District- Jamui

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1. LUTAN MANDAL Son of Dukhan Mandal Resident of Village - Baradih, P.S.- Chakai, District- Jamui
 2. Hari Mandal Son of Dukhan Mandal Resident of Village - Baradih, P.S.- Chakai, District- Jamui

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Satya Prakash Parasar

For the Opposite Party/s : Ms.Asha Devi

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 04-03-2020 Heard learned counsel for the petitioners and learned APP
for the State.

Petitioners apprehend their arrest in connection with Chakai P. S. Case No. 125 of 2019 instituted for the offence under Section(s) 30(a) of the Bihar Prohibition and Excise Act, 2016.

The First Information report is based on recovery of 3.87 liters of illicit liquor from the house of co-accused Kishore Mandal.

It is submitted by the petitioner's counsel that during course of investigation and supervision, petitioner's name has been dragged in the instant case that they too are indulging in



illicit trade of liquor. Neither any recovery is attributed to the petitioner, or from the premise owned by them. They are apprehending their arrest on the basis of such allegation, for which, there is no factual basis even as per the averments made in the First Information report itself. They are having no criminal antecedents and that the offence under the Bihar Prohibition and Excise Act would not be made out against the petitioner.

The learned APP for the State has opposed the prayer for anticipatory bail, referring to the provisions contained in Section 76(2) of the Bihar Prohibition and Excise Act and submitted that pre-arrest bail would not be maintainable.

This Court is conscious of decision of the Full Bench in the case of **Ram Vinay Yadav vs. State of Bihar** reported in **2019(2) PLJR 1089**. Having regard to the law laid down in the said judgment and the submissions advanced on behalf of the petitioner, this Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submissions of counsel for the petitioner.

In the facts and circumstances of the case, prayer of the petitioners for grant of anticipatory bail is allowed. In the event of surrender/arrest of the petitioners, named above, before the



court below, within four (04) weeks from today, they shall be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the **Addl. District and Sessions Judge-II, Jamui**, in connection with **Chakai P. S. Case No. 125 of 2019**, subject to the conditions as laid down under Section 438(2) Cr. P.C. subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioners who will give an affidavit giving genealogy as to how he is related with the petitioners. The bailor 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 bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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