

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8603 of 2020

Arising Out of PS. Case No.-178 Year-2019 Thana- FULKAHA District- Araria

1. SARTAJ Son of Jhumar @ Murtaza Resident of Village - Pathraha, P.S.- Ghurna, District- Araria
2. Arshid @ Wasim Akram Son of Karim @ Karimuddin Resident of Village - Pathraha, P.S.- Ghurna, District- Araria
3. Mikail Ansari @ Nikai Ansari Son of Rahman Ansari Resident of Village - Pathraha, P.S.- Ghurna, District- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Rana
For the Opposite Party/s : Mr.Mritunjay Kumar Nirala

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

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

Petitioners apprehend their arrest in connection with Fulkaha P.S. Case No. 178 of 2019 instituted for the offence under Section(s) 30(a) of the Bihar Prohibition and Excise Act, 2016.

13 persons are said to have fled away while crossing the Indo Nepal border after abandoning the bags they were carrying. One of the co-accused, namely, Md. Sambir has been apprehended and it was revealed that the bags were containing 360 liters of Nepali liquor which is a banned substance under



the Bihar Prohibition and Excise Act. The apprehended co-accused Md. Sambir has named the petitioner as one amongst those who fled away.

It is submitted by petitioners' counsel that the petitioners have no criminal antecedents and it is out and out a case of false implication. The petitioners were, admittedly, not apprehended at the spot nor any recovery has been made from them. In these circumstances, it is submitted that no allegation whatsoever has been made out against the petitioners under the Prohibition and Excise Act.

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 petitioners, this Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submissions of counsel for the petitioners.

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 before the court below, named above, 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 2nd Additional Sessions Judge cum Special Judge, Araria, in connection with Fulkaha P.S. Case No. 178 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)

shyambihari/-

U			
---	--	--	--

