

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10507 of 2020

Arising Out of PS. Case No.-203 Year-2019 Thana- MOTIHARI MUFASIL District- East
Champaran

-
1. Rahul Kumar Son of Ram Vinay Prasad Resident of Village - Tikuliya, P.S.-
Muffassil Motihari, District- East Champaran
 2. Rajesh Yadav Son of Shivansh Yadav @ Shiv Yadav Resident of Village -
Tikuliya, P.S.- Muffassil Motihari, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dilip Kumar Tondon, Adv.

For the Opposite Party/s : Mr.Kalyan Shankar, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 10-06-2020 The matter has been listed today for consideration
through Video Conferencing.

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

Petitioners apprehend their arrest in connection with
Muffassil P.S. Case no. 203 of 2019 instituted for the offence
under Section 30(a) of the Bihar Prohibition and Excise Act,
2016 and Sections 272 and 273 of the Indian Penal Code.

On seeing the police party two persons have fled away
after throwing Jute bag. It is alleged that total 1.08 liters of
foreign liquor was found in the jute bag and local villagers have
identified the two persons fleeing away as the petitioners.



It is submitted by the petitioners' counsel that it is out and out a false case. Even as per the seizure list, the recovery is near a "State boring" having general public access. Such recovery in violation of Section 100 Cr.P.C. cannot be made the basis of attributing criminal liability against the petitioners having no criminal antecedents and no case whatsoever, in the aforesaid facts, would be made out against the petitioners under the Bihar 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.

Considering the aforesaid facts, 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 **9th Addl. District and Sessions Judge-cum Special Judge Excise East Champaran, Motihari**, in connection with **Muffassil P. S. Case no. 203 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		T	
---	--	---	--

