

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 10413 of 2020

Arising Out of PS. Case No.-6 Year-2020 Thana- AGIAON District- Bhojpur

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1. ASHOK KUMAR YADAV Son of Bihri Singh @ Bihri Yadav Resident of Village - Bhidari, P.S.- Ayar, Distt - Bhojpur.
 2. Manoj Kumar Yadav Son of Bihri Singh @ Bihri Yadav Resident of Village - Bhidari, P.S.- Ayar, Distt - Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Prabhat Kumar Singh, Advocate

For the Opposite Party/s : Mr Ajay Kumar, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 10-06-2020 The anticipatory bail petition has been listed today for consideration through Video Conferencing.

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

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

Petitioners apprehend arrest in connection with Agion Police Station (for brevity, *PS*) Case No 6 of 2020 instituted for the offence punishable under Section (s) 30a of Bihar Prohibition and Excise Act, 2016.



The prosecution case is that, on secret information, the Police Team proceeded to the river bank of Bansh River near village – Azam Nagar. Six persons fled away on seeing the Police Party. On chase, two persons have been apprehended. 30 liters country made wine, one Hero Honda motorcycle and 1000 liters of Mahuwa Jawa are alleged to have been recovered from the place. The two apprehended persons disclosed the petitioners' names as persons to whom they were supplying the country made liquor.

Petitioners' counsel submits that even as per the prosecution case, there is no recovery of illicit liquor from the petitioners. The other submission is that the petitioners have no criminal antecedent and due to local village politics, the petitioners have falsely been implicated in this case. The recovery is from the river bank having general public access and the criminal liability for such recovery cannot be fastened on the petitioners. No case under the Bihar Prohibition and Excise Act is made out against the petitioners even if allegations are taken to be true.

The learned APP for the State has opposed the prayer for pre-arrest bail referring to the provisions contained in Section 76 (2) of the Bihar Prohibition and Excise Act.



Having heard the parties, this Court would consider the parameters for consideration of prayer for pre-arrest bail in terms of the Full Bench judgment of this Court in the case of *Ram Vinay Yadav -Versus- The State of Bihar, 2019 (2) PLJR 1089*.

For the limited purpose of grant of bail, this Court is inclined to accept the submissions of learned 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, named above, before the court below, within four (04) weeks from today, they shall be released on anticipatory bail on each of them furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge IV -cum- Special Judge, Excise, Bhojpur at Ara in connection with Excise Case No 94 of 2020 arising out of Agion (G) PS Case No 6 of 2020 subject to the conditions as laid down under Section 438 (2) of Criminal Procedure Code and also 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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