IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 10449 of 2020
Arising Out of PS. Case No.-82 Year-2019 Thana- THARTHARI District- Nalanda

==========

1. BIKASH YADAV @ LANGRA @ LAGRA Son of Kosa Yadav @ Kosa Gop Resident of Village - Atbal Chak, P.S.- Tharthari, Distt.- Nalanda.
2. Ramjee Yadav @ Ramami Yadav Son of Braichi Yadav Resident of Village - Atbal Chak, P.S.- Tharthari, Distt.- Nalanda.

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

==========

For the Petitioner/s : Mr Ganesh Sharma, Advocate
For the Opposite Party/s : Mr Ramesh Chandra, 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 Tharthari Police Station (for brevity, *PS*) Case No 82 of 2019 instituted for the offence punishable under Section (s) 30a of Bihar Prohibition and Excise Act, 2016.

The prosecution case alleges manufacture and sale of country made wine by the petitioners along with Chalbal

WEB COPY

Yadav.

Petitioners' counsel submits that even as per the prosecution case, recovery of 10 liters country made wine and the utensils for manufacturing the same is from an open field having general public access. The petitioners have no criminal antecedent. There is no compliance with the mandatory procedure for seizure under Section 100 of Criminal Procedure Code and the recovered substance has not been assessed by any expert to be banned liquor substance. It is submitted that, in the circumstance, no case whatsoever is made out against the petitioners.

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.

WEB COPY

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 III -cum- Special Judge, Excise, Nalanda at Biharsharif in connection with Tharthari Mufassil PS Case No 82 of 2019 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)

M.E.H./-

U			

WEB COPY