

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10557 of 2020

Arising Out of PS. Case No.-100 Year-2019 Thana- RASULPUR District- Saran

1. Amit Singh @ Amit Kumar, Son of Anil Singh, Resident of Village - Dohar, P.S.- Rasulpur, District - Saran at Chapra.
2. Rajnish Kumar, Son of Mantu Singh, Resident of Village - Dohar, P.S.- Rasulpur, District - Saran at Chapra.
3. Amit Singh @ Bhim Singh, Son of Bhola Singh @ Shiv Shankar Singh, Resident of Village - Lakat Chapra Tiwari Tola, P.S.- Rasulpur, District - Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Alok Kumar Alok, Advocate
For the Opposite Party/s : Smt. Pushpa Sinha, APP1

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 09-07-2020 Since as of now the Courts have not resumed normal physical hearing, the matter has been listed today for consideration through video conferencing.

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

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

The petitioners are apprehending their arrest in connection with Rasulpur P.S. Case No.100 of 2019 for the



offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

2759.97 litres Indian Made Foreign Liquor has been recovered from the orchard of petitioner No.1 Amit Singh spread over 300-400 bighas of land beneath the soil. The petitioners have been named by the village people.

Petitioners' counsel submits that the recovery is from a large orchard having general public access. The petitioners are having no criminal antecedents and because petitioner no.1 was running a poultry farm inside the orchard and the informant always used to demand chicken free of cost. On refusal by him, he has been implicated in this case along with others. Admittedly, the petitioners were not apprehended at the place of recovery nor any recovery has been made from their conscious possession. It is submitted that no offence whatsoever is made out under the Bihar Prohibition and Excise Act.

Learned APP for the State has opposed the prayer for pre-arrest bail on the ground of the same being not maintainable in view of the statutory bar on pre-arrest bail under Section 76(2) of the Bihar Prohibition and Excise Act.

Considering the rival submissions and the facts, this Court, in view of the parameters for considering pre-arrest bail



laid down by a Full Bench of this Court in the case of ***Ram Vinay Yadav vs. State of Bihar***, reported in ***2019(2) PLJR 1089(FB)***, is inclined to accept the submissions advanced by the petitioners' counsel for the limited purpose of grant of pre-arrest bail. The petitioners' prayer for anticipatory bail is allowed.

Accordingly, let the petitioners, above named, in the event of their arrest or surrender before the court below within a period of four weeks from today, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned 2nd Additional Sessions Judge-cum-Special Judge, Excise, Saran at Chapra, in connection Rasulpur P.S. Case No.100 of 2019, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also subject to the following conditions:

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

(Madhuresh Prasad, J)

PNM

U		T	
---	--	---	--

