

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10547 of 2020

Arising Out of PS. Case No.-388 Year-2019 Thana- LALGANJ District- Vaishali

1. TERASH SAHANI Son of Deeplal Sahani Resident of Village-Salempur, P.S.-Lalganj, District-Vaishali (Bihar).
2. Anil Rai S/o Ram Pravesh Rai Resident of Village-Salempur, P.S.-Lalganj, District-Vaishali (Bihar).

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Anish Chandra, Advocate

For the Opposite Party/s : Mr.Pronoti Singh, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 10-06-2020

The matter has been listed today for consideration through Video Conferencing in view of the Nationwide Lockdown on account of the Covid 19 pandemic.

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.

Petitioners apprehend arrest in Lalganj PS Case No. 388 of 2019 registered under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

The prosecution alleges total recovery of 43 litres country made liquor from the two motorcycles. One person namely Chunnu Kumar was arrested. Three others are alleged to have fled away. The instant two petitioners' name has been disclosed by said Chunnu Kumar as being two out of the three persons who fled.

It is submitted by learned Counsel for the petitioners that even as per prosecution case there is no recovery of any incriminating illicit liquor from the petitioners. He submits that it is a case of false implication. The petitioners have no criminal antecedent and in view of the facts and circumstances above no case whatsoever



would be made out under the provisions of Bihar Prohibition and Excise Act.

Learned APP 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 the Bihar Prohibition and Excise Act. .

Considering the submissions and the facts, this Court, in view of the parameters for considering pre-arrest bail laid down in the case of ***Ram Vinay Yadav vs. State of Bihar reported in 2019 PLJR (2) 1089 (FB)***, is inclined to accept the submissions made 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 arrest or surrender before the court below within four weeks from today, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of 2nd Additional Sessions Judge -cum- Special Judge, Excise Act, Vaishali at Hajipur in Lalganj PS Case No. 388 of 2019 subject to all conditions as laid down in Section 438(2) of the Criminal Procedure Code as also the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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