

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 10560 of 2020

Arising Out of PS. Case No.-7 Year-2020 Thana- PURNAHYA District- Sheohar

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1. KAMOD SAHNI Son of Late Mangalu Sahni Resident of Village - Narkatiya Belwa, P.S.- Piprahi, District- Sheohar (Bihar), India
 2. Vinod Sahni @ Vinodi Sahni Son of Late Mangalu Sahni Resident of Village - Narkatiya Belwa, P.S.- Piprahi, District- Sheohar (Bihar), India

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

For the Petitioner/s :	Mr Rajesh Roy, Advocate
For the Opposite Party/s :	Mr Bishweshwar Ram, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD
ORAL ORDER

3 02-07-2020

As of now, the Courts have not resumed normal physical hearing. The matter 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 Purnahiya Police Station (for brevity, *PS*) Case No 7 of 2020 dated 07.01.2020 instituted for the offence punishable under Section 30 (a) of Bihar Prohibition and Excise Act, 2016.

The prosecution case is that on secret information, the



police party has proceeded to apprehend the persons who were keeping some illicit liquor on the boat, recovery of 243 liters of Nepali liquor has been made from the river bank.

It is submitted by petitioners' counsel that both the petitioners are brothers and that they have falsely been implicated in this case mala fide. On the same day, they have also been implicated in another case for recovery of illicit liquor, i e, Piprahi PS Case No 6 of 2020. It is further submitted that the case of the prosecution is that recovery of liquor has been made from the river bank. The same is an open place having general public access and recovery, by no stretch of imagination, can be attributed to the petitioners. In fact, for such recovery from public place, no case can be made against the petitioners for the offences punishable under the Bihar Prohibition and Excise Act. The petitioners have been allowed the privilege of anticipatory bail in Piprahi PS Case No 6 of 2020 in Cr Misc No 14182 of 2020.

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 of this Court in the case of *Ram Vinay Yadav -Versus- 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 petitioner, this Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submissions of learned counsel for the petitioner.

Considering the aforesaid facts, prayer of 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 the Additional Sessions Judge I, Sheohar in connection with Purnahiya PS Case No 7 of 2020 subject to all conditions as laid down in 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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