

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23777 of 2020

Arising Out of PS. Case No.-17 Year-2020 Thana- JAKKANPUR District- Patna

-
1. CHUNNU KUMAR Son of Satanand Rai Resident of B. K. Dutta Lane, New Jakkanpur, P.S.- Jakkanpur, District - Patna.
 2. Govind Kumar @ Rahul Rai Resident of B. K. Dutta Lane, New Jakkanpur, Hanumanpath, P.S.- Jakkanpur, District - Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rakesh Bihari Singh
For the Opposite Party/s : Mr. Ravindra Kumar

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 08-10-2020 As of now, the Courts have not resumed normal physical hearing. The matter has been listed today for consideration through Video Conferencing.

Learned counsel 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 learned APP for the State .

Learned counsel for the petitioners is expected to honor his undertaking given in the instant case for depositing the requisite court fee and to remove the defects as pointed out by



office when called upon.

Petitioners apprehend their arrest in connection with Jakkanpur P.S. Case no. 17 of 2020 instituted for the offence under Sections 30(a), 38 and 41 of the Bihar Prohibition and Excise Act, 2018.

The F.I.R. alleges that co-accused Ranjeet Kumar and his brother Sanjeev Kumar have brought illegal wine for having the same sold through the petitioner.

It is submitted by the petitioners' counsel that as per prosecution case, recovery of 48.585 liters of alleged illicit liquor, has been recovered from the house of co-accused Ranjeet Kumar. The petitioners name has been dragged in the instant cases by the seizure list witnesses that the petitioners were also fleeing away from the house. It is submitted that recovery is from the house of co-accused. Petitioners are not present at the time of recovery nor any incriminating material has been recovered from their possession. There is no recovery of intoxicant from the petitioners. Therefore, the offence under the Bihar Prohibition and Excise Act, 2016 could not be made out against the petitioners.

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 in the case *of Ram Vinay Yadav vs. 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 petitioners, this Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submissions of 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 before the court below, named above, within four (04) weeks from today, they shall be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of Special Court, Excise, Patna in connection with Jakkanpur P.S. Case no. 17 of 2020, Spl. case no. 421 of 2020, subject to the conditions as laid down under Section 438(2) Cr. P.C. subject to 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)

shyambihari/-

U			
---	--	--	--

