

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23782 of 2020

Arising Out of PS. Case No.-47 Year-2020 Thana- RAJAOLI District- Nawada

1. PARAS RAJBANSHI S/O Bandu Rajbanshi Resident of Village - Job, P.S. - Rajauli, District - Nawada.
2. Umesh Rajbanshi S/O Mushafir Rajbanshi Resident of Village - Job, P.S. - Rajauli, District - Nawada.
3. Dipu Rajbanshi Son of Kedar Rajbanshi Resident of Village - Job, P.S. - Rajauli, District - Nawada.
4. Rambriksh Rajbanshi Son in law of Kishun Rajbanshi Resident of Village - Job, P.S. - Rajauli, District - Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramod Kumar Verma

For the Opposite Party/s : Mr.Pranav 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 Rajauli P.S. Case no. 47 of 2020 instituted for the offence under Sections 30(a) and 41 of the Bihar Prohibition and Excise Act, 2016.

Two wine furnaces in running condition and fermented *Mahua* along with 70 litres country made *Mahua* liquor wine has been recovered leading to lodging of the instant case.

It is submitted by the petitioners' counsel that even as per seizure list, the recovery is from village "Job". It is not from the petitioners house or their possession. Merely because the *Choukidar* has stated the petitioners' name they have been implicated in the instant case. The petitioners were not present at the time of alleged manufacture of country made liquor or recovery of the same. The circumstances are such that no case whatsoever could be made out against the petitioners under the Bihar Prohibition and Excise Act, 2016. The statement has been made in para 3 of the bail petition that petitioners have no criminal antecedents.

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 Addl. Sessions Judge-II-cum- Special Judge, Nawada, in connection with Rajauli P.S. Case no. 47 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)

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