

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22742 of 2020

Arising Out of PS. Case No.-164 Year-2019 Thana- RAGHOPUR District- Vaishali

1. RAJESH RAI S/o Vimal Rai Resident of Village- Teenpairiya Rustampur, P.S.- Raghapur, Distt- Vaishali.
2. Munni Lal Rai @ Lal Munni Rai S/o Ramchandra Rai @ Chandar Rai Resident of Village- (Wrongly Written) as Teen Pairiya Rustampur, P.S.- Raghapur (Rustampur), Distt- Vaishali, Originally Lalmunni Rai (Male) aged about 43 year, S/o Late Chandar Rai R/o Village- Saidabad, P.S.- Raghapur, Distt- Vaishali

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Part

Appearance :

For the Petitioner/s : Mr.Manish Chandra Gandhi, Advocate
For the Opposite Party/s : Mrs. Suman Kumari, APP.

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 30-09-2020 . 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 Counsel for the State.

. This Court would expect that the petitioner's Counsel would honour his undertaking in the instant proceedings regarding supply of requisite court fee etc. within two weeks from the date he is called upon to do so by the office.



Petitioners apprehend arrest in Raghapur PS Case No. 164 of 2019 registered under Sections 30(a) of Bihar Prohibition and Excise Act, 2016.

Counsel for the petitioners submits that in view of arrest of petitioner No. 2 Munni Lal Rai he will not be pressing the application in so far as petitioner No. 2 is concerned.

The allegation is that there is recovery of 225 liters of illicit liquor from co-accused Karu Rai's house. 858 liters liquor has allegedly been recovered from co-accused Hare Ram Rai's house. The petitioner is also alleged to be one who has been bringing and storing illicit liquor for its trade.

Learned Counsel for the petitioner submits that even as per allegation there is no recovery of illicit liquor from the petitioner's possession or house. Recovery is from the house of other co-accused persons. The petitioner has been implicated since there is long standing deep routed enmity of the village chaukidar who had committed murder of petitioner's cousin. It is this chaukidar who has stated his name. Submission is that it is a case of false implication and no case whatsoever would be made out even if the allegation of recovery from other co-accused persons was accepted to be true. The petitioner is stated to be man of clean antecedent.

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 submission made by



the petitioner's counsel for the limited purpose of grant of pre-arrest bail. The petitioner's prayer for anticipatory bail is allowed.

Having considered the rival submissions this Court is inclined to grant the privilege of anticipatory bail to the petitioner No. 1.

Accordingly, let petitioner No. 1, 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 Court, Vaishali at Hajipur, in Raghapur PS Case No. 164 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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