

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 23757 of 2020

Arising Out of PS. Case No.-432 Year-2019 Thana- RUNISAIDPUR District- Sitamarhi

1. RAMBALI DHANGER Son of Kishun Dhanger Resident of Village- Baligarh, Djamgar Tola, P.S.- Runnisaidpur, Distt- Sitamarhi, (Bihar)
2. Meghnath Dhanger S/o Brich Dhanger Resident of Village- Baligarh, Djamgar Tola, P.S.- Runnisaidpur, Distt- Sitamarhi, (Bihar)
3. Indrajeet Dhanger @ Indrajit Dhanger S/o Phudena Dhanger Resident of Village- Baligarh, Djamgar Tola, P.S.- Runnisaidpur, Distt- Sitamarhi, (Bihar)
4. Sanju Dhanger S/o Bindeshwar Dhanger Resident of Village- Baligarh, Djamgar Tola, P.S.- Runnisaidpur, Distt- Sitamarhi, (Bihar)
5. Shambhu Dhanger S/o Bindeshwar Dhanger Resident of Village- Baligarh, Djamgar Tola, P.S.- Runnisaidpur, Distt- Sitamarhi, (Bihar)

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Shankar Kumar, Advocate

For the Opposite Party/s : Mr Tarun Pd Mandal, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 01-10-2020 As of now, the Courts have not resumed normal physical hearing. The matter has been listed today for consideration through Video Conferencing.

Learned 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 their arrest in connection with Runnisaidpur Police Station (for brevity, PS) Case No 432 of 2019 instituted for the offence punishable under Sections 30 (a), 38 of Bihar Prohibition and Excise Act, 2016.

Recovery of 10 liters of country made liquor has led to lodging of the case.

Petitioners' counsel submits that for such small quantity of liquor, 12 persons have been named as those who assembled for the purpose of trading in the illicit liquor. The petitioners, even as per prosecution case, were not there. Names of 12 persons are based on statement of the local Chaukidar. There is no recovery from the petitioners of any illicit liquor. There is no compliance of Section 100 of Criminal Procedure Code, neither there is any Forensic Science Laboratory Report to sustain the allegations that the recovered substance was an intoxicant. The offence under the Bihar Prohibition and Excise Act, in the circumstances, is not made out against the petitioners.

Learned APP for the State has opposed the prayer for anticipatory bail, referring to the provisions of 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 -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 petitioners.

In the facts and circumstances of the case, 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 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 Additional Sessions Judge II -cum- Special Judge, Excise Act, Sitamarhi in Runnisaidpur PS Case No 432 of 2019 subject to the conditions as laid down under 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.

Learned counsel for the petitioners is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

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