

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85374 of 2019

Arising Out of PS. Case No.-194 Year-2019 Thana- GOPALPUR District- Patna

1. Moti Paswan Son of Saryug Paswan Resident of Village - Jolbigha, P.S.- Gopalpur, District- Patna
2. Soti Paswan Son of Saryug Paswan Resident of Village - Jolbigha, P.S.- Gopalpur, District- Patna

... .. Petitioners

Versus

The State of Bihar Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Jay Ram Prasad
For the Opposite Party/s : Mr.Gauri Shankar Gupta

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 08-01-2020 Heard learned Counsel for the petitioners and the learned APP for the State.

Petitioners apprehend arrest in Special Case No. 6061 of 2019 arising out of Gopalpur PS Case No. 194 of 2019 registered under Sections 147, 148, 149, 353, 332 of the IPC and Section 30(a)/40 of Bihar Prohibition and Excise Act, 2016

Petitioners apprehend their arrest on account of alleged recovery of 26 litres of Mahua wine from their house.

Counsel for the petitioners submits that the petitioners dispute alleged recovery. It is also submitted that recovery is from an area which is accessible to the general public. Submission is that petitioners have no concern with the alleged recovery and that even if the same has been recovered it has been planted by someone else. It is in these circumstances that it is submitted that false implication cannot be ruled out. In the circumstances, it is submitted that no case whatsoever would be made out under the provisions of Bihar Prohibition and Excise Act. Petitioners also have no criminal antecedent and are said to be men of means. It is also submitted by petitioners counsel that other co-accused persons have been allowed anticipatory bail in Cr. Misc. No. 81066 of 2019.



Learned APP has opposed the prayer for bail. Referring to Section 76(2) of the Act on account of maintainability of pre arrest bail application.

Having regard to law set by Full Bench in the case of ***Ram Vinay Yadav vs. State of Bihar***, reported in ***2019(2) PLJR 1089***, this court is inclined to accept the submissions advanced on behalf of the petitioners.

Considering the aforesaid submissions prayer for anticipatory bail of the petitioners is allowed.

In the event of arrest or surrender before the court below within four weeks from today, let the petitioners above named 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 Special Judge, Excise, _Patna in Special Case No. 6061 of 2019 arising out of Gopalpur PS Case No. 194 of 2019 subject to all conditions as laid down in Section 438(2) of the Criminal Procedure Code as also 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 petitioner.

(ii) That the petitioners will be well represented on each date in the trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled.

(Madhuresh Prasad, J)

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