

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27456 of 2020

Arising Out of PS. Case No.-42 Year-2020 Thana- WARISLIGANJ District- Nawada

1. SHANKAR KUMAR @ SHANKAR KR. NIRALA S/o Shashi Bhushan Prasad Resident of Village-Meer Bigha, P.S-Warisaliganj, District-Nawada.
2. Rajiv Ranjan Kumar @ Rajiv Ranjan S/o Sidheshwar Prasad @ Sadhu Mahto Resident of Village-Meer Bigha, P.S-Warisaliganj, District-Nawada.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Pankaj Kumar, Advocate
Mr. Niranjan Kumar, Advocate
For the Opposite Party/s : Mr. Matloob Rab, APP.

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 20-01-2021 Heard learned Counsel for the petitioners and the learned Counsel for the State.

Petitioners apprehends arrest in Warisaliganj PS Case No. 42 of 2020 registered under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

300 liters country made liquor is alleged to have been recovered from a well from behind the petitioners' house.

Learned Counsel for the petitioners submits that from perusal of the seizure list it is apparent that recovery is from a well located on the west side of the road. The place from where recovery has been made was having general public access. Recovery therefore cannot be attributed to the petitioners. There is no recovery from the petitioners or their property. The factual basis for any case under the provisions of Bihar Prohibition and Excise Act does not exist even on bare perusal of the allegation read with the seizure list.

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

Accordingly, let the petitioners 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 Additional Sessions Judge -cum- Special Judge, Nawada in Warisaliganj PS Case No. 42 of 2020 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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