

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28626 of 2020

Arising Out of PS. Case No.-911 Year-2019 Thana- TURKAULIYA District- East Champaran

1. RAJU KUMAR Son of Late Jhagaru Rawat Resident of Village- Banjariya Sahu Tola, P.S.- Banjariya, District- East Champaran.
2. Vikash Kumar S/o Prabhu Sahani Resident of Village- Chailaha Kothi, P.S.- Banjariya, District- East Champaran.
3. Ranjit Sahani Son of Prabhu Sahani Resident of Village- Chilaha Kothi, P.S.- Banjariya, District- East Champaran.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Abhishek Kumar, Advocate

For the Opposite Party/s : Mr.Anhay Kumar, 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 apprehend arrest in Turkauliya (Banjariya) PS Case No. 911 of 2019 registered under Sections 272, 273 of the IPC and section 30(a) of Bihar Prohibition and Excise Act, 2016.

The case as per FIR is that on seeing the police party three persons fled away leaving a motorcycle, from which 80 liters country made liquor was recovered in a bag.

At the very outset learned Counsel for the petitioners submits that petitioner Nos. 2 and 3 have since been arrested.

This application in respect of petitioner No. 2 Vikash Kumar and petitioner No. 3 Ranjit Sahani is therefore dismissed as not pressed.

In respect of petitioner No. 1, learned Counsel for the petitioner submits that his implication is not reliable as it is submitted that the villagers have disclosed the name of the petitioner as being one who has fled away. The police personnel have not seen the petitioner. It is also submitted that the motorcycle also does not stand in the petitioner's name and the petitioner has no concern with the same. The implication is without any factual basis as the allegations even if they are taken to be true would not constitute any offence



against the petitioner 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.

Accordingly, let the 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 9th Additional Sessions Judge cum Special Judge, Excise Motihari, East Champaran in Turkauliya (Banjariya) PS Case No. 911 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)

SNkumar/-

U		T	
---	--	---	--

