

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44759 of 2022

Arising Out of PS. Case No.-472 Year-2021 Thana- JOKIHAT District- Araria

1. Ranjeet Chaudhary @ Ranjeet Bahardar @ Chaudhary Son Of Marich Lal Chaudhary R/O Village- Matiyari, Ward No.-7, P.S.- Jokihat, District- Araria
2. Marich Lal Chaudhary Son Of Late Harilal Chaudhary R/O Village- Matiyari, Ward No.-7, P.S.- Jokihat, District- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gopal Kumar Jha, Advocate

For the Opposite Party/s : Mr. Damodar Prasad Tiwary, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 06-12-2022 Heard learned counsel for the petitioners and
learned Additional Public Prosecutor for the State.

Learned counsel for the petitioners is permitted to
remove the defect(s), as pointed out by the office, if any, within
a period of four weeks from today.

The petitioners are apprehending their arrest in a
case registered for the offences punishable under Sections 272,
273 and 34 of the Indian Penal Code and Section 30(a) of Bihar
Prohibition and Excise Act, 2016.

Recovery is of 9 liters of liquor.

Learned counsel for the petitioners submits that
the petitioners have clean antecedent and they have falsely been



implicated in the present case. He further submits that the name of the petitioners has been transpired on the basis of the disclosure made by the villagers. He further submits that the recovery has been made from near the house of the co-accused, namely, Chunni Devi and not from petitioners' possession. He further submits that the petitioners have no concern at all with the alleged recovery of illicit liquor or the co-accused person. He further submits that except the disclosure of the co-villagers, no other cogent material has come during investigation against the petitioners. Therefore, the recovery cannot be attributed to the petitioners. There is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C. No case, whatsoever, would be made out against the petitioners under the Bihar Prohibition and Excise Act.

The learned Additional Public Prosecutor has vehemently opposed the prayer for anticipatory bail of the petitioners referring the provision contained in Section 76(2) of the Bihar Prohibition and Excise Act and submitted that the pre-arrest bail would not be maintainable.

This court is aware of the decision of the Full Bench in the case of **Ram Vinay Yadav vs. State of Bihar** reported in **2019(2) P.L.J.R. 1089**. Having regard to the law laid



down in the aforesaid judgment and the submission advanced on behalf of the parties, this Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submission of counsel for the petitioners.

Considering the aforesaid facts, nothing has been recovered from conscious possession of the petitioners and their names have been transpired on the basis of the disclosure made by the villagers and they have clean antecedent, let the petitioners, above named, in the event of their arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending in connection with Jokihat P.S. Case No. 472 of 2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

1. Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court



below.

2. If the petitioners tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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