

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45670 of 2022

Arising Out of PS. Case No.-100 Year-2022 Thana- SARAIYA District- Muzaffarpur

1. Suryadeo Singh Son Of Kamal Singh
2. Vinod Kumar Singh Son Of Not Given In Petition
Both R/O Village- Repura Rampur Balli, P.S.- Saraiya (Jaintpur O.P.), Dist.-
Muzaffarpur

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Ajit Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 25-11-2022 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.

Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State in virtual Court
proceeding.

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

Recovery is of 19.35 liters of foreign liquor.

Learned counsel for the petitioners submits that



petitioners have clean antecedent. They have falsely been implicated in the present case. Further submits that the recovery has been made from Poultry Farm and not from petitioners' possession. The motorcycle in question also does not belong to 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.

Learned A.P.P. for the State has vehemently opposed the prayer for 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) PLJR 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, 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 learned court below where the case is pending in connection with Saraiya (Jaintpur O.P.) P.S. Case No. 100 of 2022, 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 bonds shall be cancelled by the Court below.

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

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 antecedents, 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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