

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53703 of 2022

Arising Out of PS. Case No.-65 Year-2022 Thana- AMNAUR District- Saran

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1. Arjun Ram Son Of Ganaur Ram @ Ganau Ram
 2. Shyam Sunder Ram Son Of Ganaur Ram @ Ganau Ram
Both R/O Village- Kala Dharhara, P.S.- Amnour, District- Saran (Chapra)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Singh, Advocate
For the Opposite Party/s : Mr.Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 28-11-2022 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.

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

Recovery is of 95 liters of country made liquor.

Learned counsel for the petitioners submits that petitioner No.1 clean antecedent. Petitioner No.2 has got one criminal antecedent. They have falsely been implicated in the present case. The name of the petitioner have been transpired on



the basis of the disclosure made by co-accused persons and except disclosure of the co-accused persons no cogent material has come during investigation against the petitioners. Further submits that the recovery has been made from open place and not from petitioners' possession and the petitioners have no concern at all with the alleged recovery of liquor. 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 Amnour P.S. Case No. 65 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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