

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64281 of 2022

Arising Out of PS. Case No.-257 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- East Champaran

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1. Naresh Sahani Son Of Ramjee Sahani @ Ramji Sahani R/O Village- Bairiya, P.S.- Turkauliya, District- East Champaran
 2. Ankit Sahani Son Of Late Umesh Sahani R/O Village- Bairiya, P.S.- Turkauliya, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 06-12-2022 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 30(a) of the Bihar Excise Act.

Recovery is of 35.600 litres of country made liquor.

Learned counsel for the petitioners submits that the petitioners have clean antecedents and have falsely been implicated in the present case. He further submits that the recovery has been made from the hut in question and not from petitioner's possession. He further submits that the petitioners are neither the owner nor the rental in hut in question and the



petitioners have no concern at all with the alleged recovery of the illicit liquor or the hut in question. 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 the conscious possession of the petitioners and they are no concern with the alleged recovery of the illicit liquor or the hut and the petitioners have clean antecedents, let the



petitioners, above named, in the event of his 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 Excise Case No. 257 of 2020, 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.

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 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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