

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46379 of 2023

Arising Out of PS. Case No.-612 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Nawada

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1. MANOJ KUMAR Son of Ramchandra Prasad
 2. KAPIL PRASAD Son of Lakhan Prasad
 3. SUNIL KUMAR Son of Naresh Prasad
All Resident of village-Bhitiya, P.S.-Parnadawar, Distt-Nawada

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Sinha,Advocate
For the Opposite Party/s : Mr.Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 16-10-2023 Heard Mr.Rajesh Kumar Sinha,learned counsel for
the petitioners and Mr.Binod Kumar, learned Additional Public
Prosecutor for the State.

2. The petitioners are apprehending their arrest in
connection with Excise P.S.Case No.612 of 2022,FIR dated
28.12.2022 registered for the offences punishable under
Sections 30(a) and 30(c) of Bihar Prohibition and Excise
(Amendment) Act, 2016.

3. Recovery is of 40 liters of country made liquor.

4. Learned counsel for the petitioners submits that
petitioner Nos. 1 and 3 carries one more case other than the
present one and they are on bail in the said case. Petitioner No.2



has clean antecedent. They have falsely been implicated in the present case on the basis of suspicion. Further submits that from a bare perusal of the FIR as well as the seizure list that nothing has been recovered from conscious possession of the petitioners rather the recovery has been made from Bhitiya Jungle and the petitioners have no role at all in the alleged occurrence and they have been made accused on the basis of the information furnished by the nearby people. 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.

5. 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.

6. 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.

7. Considering the aforesaid facts, nothing has been recovered from conscious possession of the petitioners, name of the petitioners have been transpired on the basis of the disclosure made by the nearby people, 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 Exclusive Special Excise Judge, Nawada in connection with Excise P.S.Case No.612 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

(I) 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.

(II) 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.



(III) 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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