

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60207 of 2023

Arising Out of PS. Case No.-134 Year-2023 Thana- KARJA District- Muzaffarpur

1. BRIJESH SAHNI @ BRAJESH KUMAR SAHNI son of Gonaur Sahani
Village- Barka Gaon Uttari Tola Chakla Ps- Karja Dist- Muzaffarpur
2. Vijay Paswan son of Anandi Paswan Village- Barka Gaon Uttari Tola Chakla
Ps- Karja Dist- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravi Nandan, Adv.

For the Opposite Party/s : Mr.Bhanu Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-10-2023 Heard Mr. Ravi Nandan, learned counsel for the

petitioners and Mr. Bhanu Pratap Singh, learned Additional

Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in
connection with Karja P.S. Case No. 134 of 2023, FIR dated
15.04.2023, registered for the offences punishable under Section
30 (a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 32.220 litres of illicit liquor.

4. Learned counsel for the petitioners has submitted
that the petitioners have clean antecedent. They have falsely
been implicated in the present case only on the basis of
disclosure made by the co-accused, namely, Anil Pandit. He



further submits that from perusal of the FIR as well as the seizure list, it appears that nothing has been recovered from the conscious possession of the petitioners and except the disclosure made by co-accused, no other material has come during investigation suggests the involvement of the petitioners in the present case. 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 APP 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 learned counsel for the petitioners.

7. Considering the fact that the petitioners have



clean antecedent, nothing has been recovered from their conscious possession and their names have transpired during the course of investigation on the basis of disclosure made by co-accused, let them, in the event of their arrest or surrender within a period of four weeks, 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 Special Judge, Excise Court No. II, Muzaffarpur in connection with Karja P.S. Case No. 134 of 2023, subject to the conditions laid down under Section 438(2) of the Cr.P.C and with further 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 bond 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 their bail bonds.

(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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