

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60093 of 2023

Arising Out of PS. Case No.-264 Year-2023 Thana- BEGUSARAI MUFFASIL District-
Begusarai

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1. ALOK KUMAR SON OF AMBIKA RAY, RESIDENT OF VILLAGE DHABAULI, PS MUFFASIL, DISTRICT BEGUSARAI.
 2. MUNNA KUMAR SON OF NARAYAN RAY, RESIDENT OF VILLAGE DHABAULI, PS MUFFASIL, DISTRICT BEGUSARAI.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amar Kumar Singh, Adv.

For the Opposite Party/s : Mrs.Rina Sinha, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-10-2023 Heard learned counsel for the petitioners and
learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Muffasil P.S. Case No. 264 of 2023, FIR dated 11.05.2023, registered for the offences punishable under Section 30 (a) of the Bihar Prohibition and Excise Act.

3. Prosecution case, in short, is that on the tip off, the informant along with police personnel reached at the place of occurrence to conduct a raid. Seeing the police party, three accused persons started to flee away and on chase, one person, namely, Chhotu Kumar @ Amrendra Kumar was apprehended. On search of the house of the apprehended accused person,



three litres of foreign liquor was recovered from his cow-shed.

4. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in the present case on the basis of disclosure made by the co-accused, namely, Chhotu Kumar. He further submits that it appears from the FIR as well as the seizure list that nothing has been recovered from the conscious possession of the petitioners, rather recovery of three litres of wine has been made from the possession of co-accused Chhotu Ram. The petitioners have no concern with the alleged recovery or the co-accused person and except the disclosure made by the 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, on the other hand, has vehemently opposed the prayer for bail 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 but fairly submits that the petitioner no. 1 carries one criminal antecedent other than the present one, and he is on



bail in that case.

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 petitioner has clean antecedent, nothing has been recovered from his conscious possession and his name has transpired during investigation on disclosure made by the co-accused, let the above-named petitioners, 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 Exclusive Special Judge, Excise-I, Begusarai in connection with Muffasil P.S. Case No. 264 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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