

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59919 of 2023**

Arising Out of PS. Case No.-140 Year-2023 Thana- BHAGWANPUR
District- Vaishali

- =====
1. SACHIN KUMAR son of Ratnesh Singh Village- Jagdishpur Kamtaul Ps-
Kudhani Dist- Muzaffarpur
 2. Ranjan Pandit @ Ranjan Kumar son of Tuntun Pandit Village- Jagdishpur
Kamtaul Ps- Kudhani Dist- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Namrata Mishra
For the Opposite Party/s : Mr.Shaheen Begum

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-10-2023 Heard Mr. Namrata Mishra, learned counsel for the

petitioners and Mr. Shaheen Begum, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection
with Bhagwanpur P.S. Case No. 140 of 2023 dated 13.03.2023
registered for the offence under Sections 420, 414, 467 and
120(B) of the Indian Penal Code and Section 30(a), 32(i)(ii), 36
and 41 of the Bihar Prohibition and Excise Act.

Recovery is of 1522.77 liters of foreign illicit liquor.

Learned counsel appearing for the petitioners submits
that the petitioners are innocent and have falsely been implicated
in this case. He further submits that on bare perusal of the F.I.R.
and the seizure list, it appears that nothing has been recovered



from the conscious possession of the petitioners rather the alleged recovery has been made from the Truck in question. He further submits that neither the petitioners happen to be owner of the truck nor they are driver or co-driver of the truck in question. The petitioners have no concern at all with the alleged recovery and the vehicle in question. He further submits that the petitioners were made accused in this case merely because of their previous antecedents of similar nature. Moreover, co-accused, Chandan Kumar having more or less similar allegation has already been granted anticipatory bail by a co-ordinate Bench of this Court vide order dated 25.08.2023 passed in Cr. Misc. No. 49896 of 2023 and the co-accused, Sakesh Kumar @ Saket Kumar has already been granted bail by a co-ordinate Bench of this Court vide order dated 29.08.2023 passed in Cr. Misc. No. 55249 of 2023 and the case of these petitioners stands on similar footing. No case 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 grant of anticipatory bail to the petitioner referring to the provisions contained in Section 76(2) of the Bihar Prohibition and Excise Act and submits that this application seeking pre-arrest bail would not be maintainable. He further submits that the petitioners carries two more case other than the present one although they are on bail in the pending case.



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 facts and circumstances of the case and the fact that nothing incriminating has been recovered from the possession of the petitioners and they have been made accused in this case on the basis of suspicion on the ground of their previous antecedents, let the, above named, petitioners, in the event of their arrest or surrender before the court below within a period of four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Court No.1-cum- Additional District and Sessions Judge, Vaishali at Hajipur, subject to the conditions laid down under Section 438(2) of the Cr.P.C. as also with the 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 bond shall be canceled 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 antecedent, 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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