

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61155 of 2023

Arising Out of PS. Case No.-160 Year-2022 Thana- MAKER District- Saran

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1. Ganaur Sahani Son Of Late Jug Sahani Resident Of Village -LATRAHIYA Balignwan Ps- Parsa, Dist -SARAN At Chapra
 2. Sanjay Sahani Son Of Gowardhan Sahani Resident Of Village -LATRAHIYA Balignwan Ps- Parsa, Dist -SARAN At Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioners : Mr. Ajay Kumar Sharma, Advocate
For the State : Ms. Sangeeta Sharma, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 16-10-2023 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners are apprehending their arrest in connection with Maker P.S. Case No. 160 of 2022 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

3. From two jerrycans 30 liters each country made liquor has been recovered. The same has been abandoned by persons on seeing the police party (informant).

4. Learned counsel for the petitioners submits that because of the petitioners' antecedents, their names have been inserted in narration of the F.I.R. by alleging that the police has



got secret information that petitioners were the two persons who were fleeing away. There is no recovery from the petitioners and the petitioners have no concern with the alleged illicit liquor. No case is made out against the petitioners.

5. The learned APP for the State has opposed the prayer for anticipatory bail, referring to the provisions contained in Section 76(2) of the Bihar Prohibition and Excise Act and submitted that pre- arrest bail would not be maintainable.

6. This Court is conscious of 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 said judgment, the rival submissions, the petitioners' implication being based on secret information and also the fact that there is no recovery from the petitioners or from their properties, this Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submissions of learned counsel for the petitioners.

7. Petitioners' prayer for anticipatory bail is allowed.

7. Accordingly, let the petitioners, above named, in the event of their arrest or surrender before the court below within a period of four weeks from today, 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 2nd Exclusive Special Excise Judge, Saran at Chapra, in connection with Maker P.S. case No. 160 of 2022, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure with following conditions:

(i) That one of the bailors will be a close relative of the petitioners who will give an affidavit giving genealogy as to how he is related with the petitioners. The bailor will also undertake to inform the court if there is any change in the address of the petitioners.

(ii) That the petitioners will be well represented on each date and if they fail to do so on two consecutive dates, their bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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