

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63841 of 2023

Arising Out of PS. Case No.-561 Year-2023 Thana- KANTI District- Muzaffarpur

1. Vishal Kumar Son Of Ram Ekawal Rai Resident Of Village- Harpur Ganesh, Ps- Kanti (PANAPUR Op), Distt- Muzaffarpur
2. Bittu Kumar Son Of Brijnandan Rai Resident Of Village- Harpur Ganesh, Ps- Kanti (PANAPUR Op), Distt- Muzaffarpur
3. Bittu Kumar Son Of Jeet Narayan Rai Resident Of Village- Harpur Ganesh, Ps- Kanti (PANAPUR Op), Distt- Muzaffarpur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioners	:	Mr. Manoj Kumar, Advocate
For the State	:	Ms. Meena Singh, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 17-10-2023 1. Heard learned counsel for the petitioners and the learned APP for the State.

2. The petitioners are apprehending their arrest in connection with Kanti (Panapur O.P.) P.S. Case No. 561 of 2023 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. 7-8 persons have fled away from the place where there is alleged recovery of 927 litres of illicit liquor from a *Bolero* vehicle and three motorcycles.

4. The learned counsel for the petitioners submits that there is no basis for alleging that petitioners are three out of



seven to eight persons, who fled away. Implication is based solely on suspicion. The petitioners have no concern with any of the vehicles recovered; and all the petitioners have clean antecedents. The circumstances and facts emanating from the FIR are insufficient to make out any case against the petitioner for offences under the Bihar Prohibition and Excise Act.

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. Considering the rival submissions, the manner of recovery, as well as the antecedent of the petitioners, this Court, in view of the parameters for considering pre-arrest bail laid down by a Full Bench of this Court in the case of ***Ram Vinay Yadav vs. State of Bihar***, reported in ***2019 (2) PLJR 1089 (FB)***, 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.

8. 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 Exclusive Special Judge, Excise, Court-II, Muzaffarpur in connection with Kanti (Panapur O.P.) P.S. Case No. 561 of 2023, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also subject to the 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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