

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64032 of 2023

Arising Out of PS. Case No.-151 Year-2023 Thana- SIKTI District- Araria

1. MD. KAUSHAR son of Late Islam @ Md. Islamuddin Village- Gadahkat Ps- Sikti Dist- Araria
2. Jansar @ Md. Jawed son of Shahid Village- Gadahkat Ps- Sikti Dist- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Rana

For the Opposite Party/s : Mr.Rajendra Nath Jha

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 18-10-2023 1. Heard learned counsel for the petitioners and the
learned APP for the State.

2. The petitioners are apprehending their arrest in connection with Sikti P.S. Case No. 151 of 2023 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. 8-9 persons were allegedly smuggling illicit liquor across the Indo-Nepal border. Police have arrived there on secret information. The perpetrators while fleeing have stated the name of the instant petitioners.

4. The learned counsel for the petitioners submits that the perusal of FIR itself would show that the petitioners' identification in the circumstances is unsustainable. Because the



petitioners are accused in two cases since before, they have unnecessarily been dragged in this case, though they have no concern with the alleged recovery.

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 (FB)**. Having regard to the law laid down in the said judgment and the submissions advanced on behalf of the petitioner, this Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submissions of learned counsel for the petitioner.

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 Exclusive Special Judge Excise-II, Araria in connection with Sikti P.S. Case No. 151 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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