

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66379 of 2023

Arising Out of PS. Case No.-169 Year-2023 Thana- BIRPUR District- Supaul

1. KUPILA DEVI@ KOPILA DEVI Wife of Suresh Urav @ Suresh Uronv
 2. Ranjan Kumari @ Ranjan Devi Wife of Shailendra Uronv
 3. Lalita Devi Wife of Pramod Uraon
 4. Jamri Uranv Son of Radhe Uranv
- All are R/o vill - Bishunpur Ghansham, P.S. - Balua Bazar, Distt. - Supaul

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arun, Advocate

For the Opposite Party/s : Mr.Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-11-2023 Heard Mr.Arun, learned counsel for the petitioners

and Mr.Binod Kumar, learned Additional Public Prosecutor for

the State.

2. The petitioners are apprehending their arrest in
connection with Birpur (Balua Bazar) P.S.Case No.169 of 2023,
FIR dated 23.05.2023 registered for the offences punishable
under Sections 30(a)/45 of Bihar Prohibition and Excise Act,
2018 and Section 3 of Damage of Public Property Act, 1984.

3. Recovery is of 10 liters of country made liquor.
Allegation against the petitioners is of damaging the police
vehicle, which is general and omnibus allegation.

4. Learned counsel for the petitioners submits that



petitioner Nos. 1 to 3 carry one more case and petitioner No.4 carries two more cases other than the present one and all the petitioners are on bail in all the pending cases. Further submits that the petitioners have falsely been implicated in the present case. Further submits that from a bare perusal of the FIR as well as the seizure list that the recovery has been made from other co-accused person, namely, Praveen Uronv and Kavita Devi and nothing has been recovered from conscious possession of the petitioners and the allegation against the petitioners is that they have damaged the vehicle of the police but there is no specific allegation against the petitioners rather there is general and omnibus allegation against all the accused persons including the petitioners. 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 A.P.P. for the State has vehemently opposed the prayer for bail of the petitioners 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.

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 Counsel for the petitioners.

7. Considering the aforesaid facts, nothing has been recovered from conscious possession of the petitioners and allegation against the petitioners is of damaging the police vehicle, which is general and omnibus allegation, let the petitioners, above named, in the event of their arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, 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 A.D.J.-V, Supaul in connection with Birpur (Balua Bazar) P.S.Case No.169 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other 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 bonds 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 bail.

(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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