

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67879 of 2023

Arising Out of PS. Case No.-112 Year-2022 Thana- BAHERA District- Darbhanga

1. Ratan Yadav Son Of Bilash Yadav @ Ram Bilash Yadav Resident Of Village - Paraul Rashidpur, P.S. - Manigachhi (BAJITPUR O.P.) District - Darbhanga
2. Roushan Kumar Yadav @ Hanuman Yadav Son Of Bilash Yadav @ Ram Bilash Yadav Resident Of Village - Paraul Rashidpur, P.S. - Manigachhi (BAJITPUR O.P.) District - Darbhanga

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Baidya Nath Prasad, Advocate

For the Opposite Party/s : Ms. Sangeeta Sharma, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 19-10-2023 Heard Mr. Baidya Nath Prasad, learned counsel for the petitioners and Ms. Sangeeta Sharma, learned Additional Public Prosecutor for the State.

2. Learned counsel for the petitioners submits that during pendency of the anticipatory bail petition, the petitioner no. 2, namely, Roushan Kumar Yadav @ Hanuman Yadav has been arrested and as such the present application has become infructuous.

3. Learned counsel for the petitioner seeks permission to withdraw this application with respect to petitioner no. 2.

4. Prayer is allowed.

5. Accordingly, the present application is dismissed as withdrawn with respect to petitioner no. 2, namely, Roushan



Kumar Yadav @ Hanuman Yadav.

6. The petitioner no. 1, namely, Ratan Yadav is apprehending his arrest in connection with Bahera P.S. Case No. 112 of 2022, F.I.R dated 19.03.2022 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

7. Recovery is of 450 liters of foreign liquor.

8. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R is false and fabricated. He further submits that it appears from the F.I.R that nothing has been recovered from the conscious possession of the petitioner rather the recovery has been made from the orchid. He further submits that the petitioner has no concern at all with the alleged recovery of the illicit liquor and the name of the petitioner has been transpired on the basis of the disclosure made by the local people. 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 petitioner under the Bihar Prohibition and Excise Act.

9. The learned Additional Public Prosecutor has



vehemently opposed the prayer for anticipatory bail of the petitioner 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.

10. 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 petitioner.

11. Considering the aforesaid facts, nothing has been recovered from conscious possession of the petitioner and the petitioner has clean antecedent and the name of the petitioner has been transpired on the basis of the disclosure made by the local people, let the petitioner, above named, in the event of his 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) with two sureties of the like amount each to the satisfaction of the learned Special Judge and Excise Act-II, Darbhanga in connection with Bahera P.S. Case No. 112 of



2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

i. Petitioner 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 his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. If the petitioner tampers 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 petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. 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)

Vanisha/-

U		T	
---	--	---	--

