

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.71333 of 2023**

Arising Out of PS. Case No.-153 Year-2023 Thana- TILAUTHU District- Rohtas

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1. SURAJ PASWAN @ SURAJ KUMAR S/O LALAN PASWAN R/O VILLAGE- BHISRA, P.S- AMJHOR, DISTT.- ROHTAS.
  2. MUKESH KUMAR S/O SURENDRA YADAV R/O VILLAGE- BHISRA, P.S- AMJHOR, DISTT.- ROHTAS.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Rajesh Kumar Singh, Adv.  
For the Opposite Party/s : Mr.Pushpa Sinha.1, APP

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**

ORAL ORDER

2      07-11-2023                      Heard learned counsel for the petitioners as well as learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Tilauthu P.S. Case No. 153 of 2023, F.I.R. dated 14.07.2023, registered for the offence punishable under Sections 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2016.

3. There has been recovery of 10 litres of Mahua liquor.

4. Learned counsel for the petitioners submits that petitioners have clean antecedent and they have been falsely implicated in the present case on the basis of secret information. He further submits that as per allegation made in the F.I.R., the petitioners have escaped from the place of occurrence and nothing



has been recovered from the conscious possession of the petitioners and except the secret information, no other cogent material has come during investigation to suggest the involvement of the petitioners in the present occurrence. 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.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for anticipatory 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) 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.

7. Considering the aforesaid fact, petitioners have clean antecedent, nothing has been recovered from the conscious possession of the petitioners and the name of the petitioners have



transpired from the secret information, 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 anticipatory bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, Excise-II-cum-Additional Sessions Judge, Rohtas, Sasaram in connection with Tilauthu P.S. Case No. 153 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 anticipatory 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 anticipatory 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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