

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71095 of 2023

Arising Out of PS. Case No.-247 Year-2023 Thana- CHERIYA BARIYARPUR District-
Begusarai

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1. Dilip Sahani S/O Ram Bahadur Sahani R/O Ward No. 20, Village- Karor, Khanjahanpur, P.S- Cheria Bariyarpur, Distt.- Begusarai.
 2. Marani Devi W/O Dilip Sahani R/O Ward No. 20, Village- Karor, Khanjahanpur, P.S- Cheria Bariyarpur, Distt.- Begusarai.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Yogesh Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-11-2023 Heard Mr. Yogesh Kumar, learned counsel for the

petitioners and Mr. Mukesh Kumar Singh, learned Additional

Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in
connection with Cheria Bariyarpur P.S. Case No. 247 of 2023,
F.I.R dated 22.08.2023 registered for the offences punishable
under Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 12 liters of country made liquor.

4. Learned counsel for the petitioners submits that
the petitioners have clean antecedent and they have falsely been
implicated in the present case. He further submits that it appears
from the F.I.R as well as seizure list that nothing incriminating



articles have been recovered from the house of the petitioners. He further submits that the petitioners are not present at the time of the seizure. 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. The learned Additional Public Prosecutor have 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. Their 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, their 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 have been recovered from conscious possession of the petitioners and the petitioners have clean antecedent, 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 the learned Exclusive Special Excise Judge-Ist, Begusarai in connection with Cheria Bariyarpur P.S. Case No. 247 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

1. 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 bond shall be cancelled by the Court below.

2. If the petitioners tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. 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 antecedent, 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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