

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71294 of 2023

Arising Out of PS. Case No.-192 Year-2023 Thana- ROHTAS District- Rohtas

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1. Saroj Kumar @ Karmu Son Of Sikandar Chaudhary Resident Of Village- Saraiya, P.S.- Rohtas (AMJHOR), District- Rohtas
 2. Akash Chaudhary Son Of Saguni Chaudhary Resident Of Village- Saraiya, P.S.- Rohtas (AMJHOR), District- Rohtas

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nagendra Upadhyay, Advocate
For the Opposite Party/s : Mr. Bishweshwar Ram, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-11-2023 Heard Mr. Nagendra Upadhyay, learned counsel for the petitioners and Mr. Bishweshwar Ram, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Rohtas (Amjhor) P.S. Case No. 192 of 2023, F.I.R dated 06.08.2023 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2018.

3. Recovery is of 45 liters of country made liquor.

4. Learned counsel for the petitioners submits that the petitioners are innocent and they have falsely been implicated in the present case on the basis of the disclosure made by the local chowkidar. He further submits that it appears



from the F.I.R that nothing have been recovered from the conscious possession of the petitioners and they have no concern at all with the recovery of the illicit liquor. He further submits that except the disclosure made by the local chowkidar, no other 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 petitioners 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. He further submits that the petitioners are named in the F.I.R and they carries one criminal antecedent each of similar nature but fairly submits on the basis of paragraph 3 of the bail petition that the petitioners are on bail in the said case.

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 petitioners.

7. Considering the aforesaid facts, 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 Court No. 2-cum- Additional District & Sessions Judge, Rohtas at Sasaram in connection with Rohtas (Amjhor) P.S. Case No. 192 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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