

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.73987 of 2023**

Arising Out of PS. Case No.-21 Year-2023 Thana- RAMPUR HARI District- Muzaffarpur

1. NAND LAL RAI S/O RAGHUNATH RAI R/O VILLAGE- PATIYASA, P.S- AHIYAPUR, DISTT.- MUZAFFARPUR.
2. NANDU RAI @ NANDU KUMAR RAI S/O RAGHUNATH RAI R/O VILLAGE- PATIYASA, P.S- AHIYAPUR, DISTT.- MUZAFFARPUR.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Ratneshwar Prasad, Advocate

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

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

2      09-11-2023                      Heard Mr. Ratneshwar Prasad, learned counsel for the petitioners and Mr. Surendra Kumar, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Rampur Hari P.S. Case No. 21 of 2023 F.I.R. dated 21.08.2023 registered for the offences punishable under Sections 414, 420, 467, 468, 471, 120(B) of the Indian Penal code and Sections 30(a), 32(ii),(iii), 36, 41(i) of Bihar Prohibition and Excise Act.

3. Recovery is of 681.300 litres of foreign liquor.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in



the present case on the basis of disclosure made by the apprehended co-accused persons namely Md. Ehsan @ Md. Tufan, Shekh Safi Ahmad and Indrajeet Kumar. He further submits that from perusal of the F.I.R. it appears that nothing has been recovered from the conscious possession of the petitioner rather recovery has been made from the vehicle in question and petitioner has no concern at all with the alleged recovery of illicit liquor or the vehicle in question. 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. He further submits that petitioner no. 1 carries one case whereas petitioner no. 2 carries three more cases other than the present one but fairly submits from paragraph-3 of the bail petition that the petitioner no. 1 is on bail in the pending case and petitioner no. 2 is on bail in two cases out of three cases.



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, nothing has been recovered from conscious possession of the petitioners and the name of the petitioners have been transpired on the basis of disclosure made by co-accused persons, 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 Exclusive Special Judge Exscise Court No. II, Muzaffarpur in connection with Rampur Hari PS. Case No. 21 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 tamper 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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