

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75742 of 2023**

Arising Out of PS. Case No.-207 Year-2023 Thana- WARISLIGANJ District-
Nawada

- =====
1. RAUSHAN KUMAR S/O ASHOK SINGH R/O VILLAGE- GADUA, P.S- WARISALIGANJ, DISTT.- NAWADA.
 2. DEEPAK KUMAR S/O CHHOTU SINGH @ KAUSLENDRA SINGH R/O VILLAGE- GADUA, P.S- WARISALIGANJ, DISTT.- NAWADA.
 3. RAJESH KUMAR S/O KAPIL SINGH @ KAPILDEO SINGH R/O VILLAGE- GADUA, P.S- WARISALIGANJ, DISTT.- NAWADA.
 4. RAHUL KUMAR S/O RAM RATAN SINGH @ RAMRATNA SINGH R/O VILLAGE- GADUA, P.S- WARISALIGANJ, DISTT.- NAWADA.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Deepak Kumar
For the Opposite Party/s : Mr.Rabindra Kumar

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 29-11-2023 Heard Mr. Deepak Kumar, learned counsel for the

petitioners and Mr. Rabindra Kumar, learned A.P.P. for the

State.

The petitioners apprehend their arrest in
connection with Warisaliganj P.S. Case No. 207 of 2023
registered for the offence under Sections 30(c) and 41 of the
Bihar Prohibition and Excise Act.

Recovery is of 175 liters of swollen Mahua solution
from a blue colored 200 liters drum.



Learned counsel appearing for the petitioners submits that the petitioners, who are of clean antecedent, are innocent and have falsely been implicated in this case merely on the basis of disclosure made by the local chaukidar. He further submits that on bare perusal of the F.I.R. and the seizure list, it appears that nothing has been recovered from the house or conscious possession of the petitioners. Save and except the disclosure of the local chaukidar, no cogent material has surfaced during course of investigation suggesting the involvement of the petitioners in the alleged occurrence. He further submits that there is non-compliance of Section 100 Cr.P.C. while preparing the seizure list, therefore, no case would be made out against the petitioners under the Bihar Prohibition and Excise Act.

Learned A.P.P. for the State has vehemently opposed the prayer for grant of anticipatory bail to the petitioner referring to the provisions contained in Section 76(2) of the Bihar Prohibition and Excise Act and submits that this application seeking pre-arrest bail would not be maintainable.

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.

Considering the facts and circumstances of the case and the fact that nothing incriminating has been recovered from the possession of the petitioners and they have been made accused in this case at the behest of local chaukidar, let the, above named, petitioners, in the event of their arrest or surrender before the court below within a period of four weeks, 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 Excise Court-2, Nawada in connection with Warisaliganj P.S. Case No. 207 of 2023, subject to the conditions laid down under Section 438(2) of the Cr.P.C. as also with the 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 canceled 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.

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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