

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75734 of 2023

Arising Out of PS. Case No.-850 Year-2023 Thana- SASARAM NAGAR District- Rohtas

1. Ashish Kumar Son Of Mukhlal Chaudhary Resident Of Village- Kuraich, Ps -SASARAM (T), District- Rohtas
2. Chandan Kumar Chaudhary Son Of Shankar Chaudhary Resident Of Village- Takiya, Shankar College Near Shiv Mandir, Ps -SASARAM (T), District- Rohtas
3. Samu Kumar @ Ashish Kumar Son Of Anup Singh @ Uttu Kumar Anup Resident Of Village- Gaurakshini, Punjabi Muhalla, Ps -SASARAM (T), District- Rohtas

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Siddharth Harsh, Advocate

For the Opposite Party/s : Mr. Narsingh Tanti, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 29-11-2023 Heard Mr. Siddharth Harsh, learned counsel for the petitioners and Mr. Narsingh Tanti, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Sasaram (T) P.S. Case No. 850 of 2023, F.I.R dated 14.09.2023 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2018.

3. Recovery is of 90 liters of Foreign liquor.

4. Learned counsel for the petitioners submits that the petitioners have clean antecedent and they have falsely been implicated in the present on the basis of the disclosure made by



the co-accused, namely, Rajesh Kumar @ Attha. He further submits that nothing has been recovered from the conscious possession of the petitioners. He further submits that except the disclosure made by the co-accused, 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.

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 facts, nothing has been



recovered from conscious possession of the petitioners and the petitioners have clean antecedent and the name of the petitioners have been transpired on the basis of the disclosure made by the co-accused person, 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 Judge, Excise Court No. 2-cum- Additional District & Sessions Judge, Rohtas at Sasaram in connection with Sasaram (T) P.S. Case No. 850 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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