

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1218 of 2023

Arising Out of PS. Case No.-490 Year-2022 Thana- CHIRAIYA District- East Champaran

1. MITHLESH PRASAD YADAV SON OF RAMGYA RAI R/O VILLAGE-
KOLASI, P.S.- CHIRAIYA, DISTRICT- EAST CHAMPARAN
2. SANTOSH RAI @ SANTOSH KUMAR SON OF JAWAHIR RAI R/O
VILLAGE- KOLASI, P.S.- CHIRAIYA, DISTRICT- EAST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Umesh Chandra Verma, Advocate
For the Opposite Party/s : Mr.Suresh Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 10-02-2023 Heard Mr. Umesh Chandra Verma, learned counsel
for the petitioners and learned APP for the State.

The petitioners apprehend their arrest in connection with Chiraiya P.S. Case No. 490 of 2022 for the offence registered under Sections 272 and 273 of the Indian Penal Code and Section 30(a) of Bihar Prohibition and Excise Act.

As per the prosecution story, the police upon secret information recovered/seized 15 litres country made liquor from the garden of petitioner no. 1, Mithlesh Prasad Yadav and 15 litres country made liquor from the bamboo ‘orchard’ of



petitioner no. 2, Santosh Rai. Although allegation is that the accused persons managed to escape but locals gave their names. Accordingly, the FIR was lodged.

Learned counsel for the petitioners, at the outset submitted with the help of Paragraph 9 that contrary to the allegation made, the petitioners do not own either the garden and/or the bamboo 'orchard' from where the recovery/seizure have been alleged. Further, none of them have criminal antecedent.

Learned APP for the State, on the other hand, opposes the prayer for anticipatory bail.

Considering the aforesaid facts that the liquor that has been recovered from the place which does not belong to either of the petitioner, they do not have criminal antecedent, this Court is inclined to extend them privilege of anticipatory bail.

If however, it is found that any of them have criminal antecedent, the bail order of the said accused shall become infructuous.

Let the petitioners in the event of arrest or surrender within a period of four weeks from the date of receipt of the order, shall be released on anticipatory bail on furnishing bail 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. 1, Motihari, East Champaran in connection with Chiraiya P.S. Case No. 490 of 2022 subject to condition as laid down under Section 438(2) of the Cr.P.C with further conditions:-

(i) one of the bailor should be the family member of the petitioners, who shall provide official document to show their bona fide;

(ii) the petitioners shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bond by their Trial court itself;

(iii) the petitioners shall appear before the concerned police station every fortnight for next one year to mark attendance;

(iv) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of their bail bonds;

(v) the petitioners shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of their bail bonds;



(vi) the petitioners shall co-operate in the investigation and made themselves available to the police as and when required.

(Rajiv Roy, J)

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