

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14614 of 2024

Arising Out of PS. Case No.-457 Year-2023 Thana- ROSERA District- Samastipur

1. Vikky Kumar @ Vikky Keshari @ Vikky Kasera
2. Vishal Kumar @ Vishal Keshari @ Vishal Kasera.
Both sons of Pramod Sah @ Pramod Kumar Sah @ Pramod Kasera R/o-
Dhab Mohalla, Ward No. 21, P.S.- Rosera, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Yogesh Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 12-03-2024 Heard Mr.Yogesh Kumar, learned counsel for the

petitioners and Mr.Parmanand Kumar, learned Additional

Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in
connection with Rosera P.S. Case No.457 of 2023, FIR dated
06.08.2023 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 6.750 liters of foreign liquor.

4. Learned counsel for the petitioners submits that the
petitioner No.2 has clean antecedent and petitioner No.1 carries
one more case other than the present one but he is on bail in the
said case. They have falsely been implicated in the present case.



The allegation as alleged in the FIR is false and fabricated and the petitioners have not committed any offence as alleged in the FIR. Further submits that from a bare perusal of the FIR as well as the seizure list that altogether 6.750 liters of foreign liquor was recovered in front of the house of the petitioners which is an open place and merely on the basis of suspicion the petitioners have been made accused in the present case. Further submits that nothing has been recovered from conscious possession of the petitioners and except the suspicion no other material has come during investigation against the petitioners 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. Learned A.P.P. for the State has vehemently opposed the prayer for 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) PLJR 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 learned Special Judge Excise-1st, Samastipur in connection with Rosera P.S. Case No.457 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

(I) 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.

(II) 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.

(III) 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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