

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26809 of 2024

Arising Out of PS. Case No.-245 Year-2023 Thana- RAHIKA District- Madhubani

1. Raj Kumar Mukhiya Son Of Palat Mukhiya
2. Palat Mukhiya Son Of Late Manohar Mukhiya
3. Sabita Devi Wife Of Rajkumar Mukhiya
4. Satto Mukhiya Son Of Late Bipat Mukhiya
5. Pramila Devi Wife Of Late Bipat Mukhiya
All Resident Of Village- Seema Ps- Rahika, Dist- Madhubani
... .. Petitioner/s

Versus

The State of Bihar
... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar, Advocate
For the Opposite Party/s : Mr.Lakshmi Kant Sharma, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 09-04-2024 1. Heard learned counsel for the petitioners as well as
learned APP for the State.

2. The petitioners seek bail in anticipation of his
arrest in a case registered for the offences punishable under
Sections 272, 273/34 of the IPC and Section 30(a)(c)(d) of the
Bihar Excise (Prohibition) Amendment Act, 2022.

3. The learned counsel for the petitioner submits that
the petitioners are a person with clean antecedent and petitioner
no.2 and 5 are women.

4. It is next submitted that allegation is of recovery of
5 liters of liquor from the house of the petitioner no.1 and 2, 10
liters from the house of petitioner no.4 and 5. It is next



submitted that petitioner no.3 is wife of petitioner no.1.

5. It is next submitted that petitioners were not arrested from the spot as such nothing was recovered from the conscious possession and after amendment in the Excise Act in the year 2018 the concept of deemed possession and presumed offender has been done away with it. It is also submitted that the house in question are a joint family property as such it cannot be alleged with certainty that it was petitioners who had kept the liquor in the house or the liquor kept in the house was within the knowledge of the petitioners. It is next submitted that they came to be implicated at the instance of local person, but then it absolutely does not stand to reason that a local person was aware of the involvement of the petitioner in the occurrence then why he or she did not inform the police prior to institution of the instant FIR, which cast an aspersion on the case of the prosecution.

6. The learned APP opposes the anticipatory bail application.

7. Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks, are directed to be released on bail



on their furnishing bail-bonds in the sum of Rs.500/- (Rupees Five Hundred) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge,II-cum-Special Judge, (Excise Act), Madhubani in connection with Rahika P.S. Case No.245 of 2023, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

8. The application stands allowed.

9. It is made clear that the learned trial court before accepting the bail bonds of the petitioners shall verify the criminal antecedent of the petitioners and in the event, if it is found that any of the petitioners has antecedent of either one case, in that event, the present anticipatory bail order shall not be given effect to against the petitioners against whom criminal antecedent is found.

(Satyavrat Verma, J)

Prakash Narayan

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