

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26169 of 2024

Arising Out of PS. Case No.-317 Year-2023 Thana- SARAI RANJAN District- Samastipur

1. Pramod Sahni S/O Shankar Sahni R/O Vill. - Bhagatpur, Ward no. 1, P.S - Sarairanjan, Distt. - Samastipur
2. Manoj Sahni S/O Shankar Sahni R/O Vill. - Harpur, P.S - Raghunathpur, Distt. - Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Surya Roy, Advocate
For the State : Ms. Gulnar Begum, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 09-05-2024 Heard Mr. Surya Roy, learned counsel for the petitioners and Ms. Gulnar Begum, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Sarairanjan P.S. Case No. 317 of 2023, F.I.R. dated 11.11.2023 for the offences punishable under Sections 341, 323, 354, 504, 506 and 34 of the Indian Penal Code and under Section 30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 5.625 litres of foreign liquor.

4. Learned counsel for the petitioners submits that petitioners have clean antecedent and they have falsely been implicated in the present case. He further submits that the



allegation as alleged in the FIR is false and fabricated and the petitioners have not committed any offence as alleged in the FIR. He further submits that it appears from the seizure list that nothing has been recovered from the conscious possession of the petitioners rather recovery has been made from the road-side which was situated near the house of informant, namely, Kamlesh Sahni. 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 Additional Public Prosecutor for the State, on the other hand, 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 petitioners.

7. Considering the aforesaid facts that the petitioners have clean antecedent and nothing has been recovered from the conscious possession of the petitioners, 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 bonds of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Judge (Excise)-02, Samastipur in connection with Sarairanjan P.S. Case No. 317 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 his absence on two consecutive dates without sufficient reason, his 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 bonds 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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