

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31340 of 2024

Arising Out of PS. Case No.-556 Year-2023 Thana- SUPAUL District- Supaul

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1. Dilkhush Kumar Mehta Son Of Dilip Mehata Resident Of Village- Latraha, Ward.No- 12, P.S- Lokaha, District- Supaul.
 2. Ramdeo Mehata Son Of Late Bahadur Mehata Resident Of Village- Trabe Krihar, P.S.- Gamhariya, District- Madhepura
 3. Pal Das Sharma Son Of Bashudeo Sharma Resident Of Village- Amaha, P.S- Lokaha (O.P), District-Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjay Kumar Singh, Advocate
For the State : Mr. Kalyan Shankar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 12-07-2024 Heard Mr. Ranjay Kumar Singh, learned counsel

for the petitioners and Mr. Kalyan Shankar, learned Additional

Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Supaul (Lokaha O.P.) P.S. Case No. 556 of 2023, F.I.R. dated 07.07.2023 for the offences punishable under Sections 30(a) of the Bihar Prohibition and Excise Act.

3. Recovery is of 86.400 liters 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 merely on the ground that the



petitioners are owners of the vehicle in question from which the recovery has been made. He further submits that the allegation as alleged is false and fabricated and the petitioners have not committed any offence as alleged in the FIR. He further submits that the petitioners are not named in the FIR, the names of the petitioners have been transpired during the investigation only on the basis that they are the owner of the vehicle which was seized by the prosecution. 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 petitioner 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.

6. Considering the aforesaid facts and circumstances and the fact that petitioners having clean antecedent and they have been made accused merely on the ground that they are the owner of the vehicle in question from which the recovery have been made, let the petitioners, above named, in the event of 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 Exclusive Special Judge Excise No.1, Supaul in connection with Supaul (Lokaha O.P.) P.S. Case No. 556 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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