

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34668 of 2024

Arising Out of PS. Case No.-365 Year-2023 Thana- SANGRAMPUR District- East
Champaran

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1. Kolai Kumar @ Kalai Mukhiya Son of Virendra Mukhiya @ Birendra Mukhiya RESIDENT OF VILLAGE - KOIRGAWAN BINTOLI, P.S.- SANGRAMPUR, DISTT- EAST CHAMPARAN
 2. UPENDRA MUKHIYA SON OF GANESH MUKHIYA RESIDENT OF VILLAGE - KOIRGAWAN BINTOLI, P.S.- SANGRAMPUR, DISTT- EAST CHAMPARAN
 3. KARANDEV PASWAN SON OF KRISHNA PASWAN RESIDENT OF VILLAGE - KOIRGAWAN BINTOLI, P.S.- SANGRAMPUR, DISTT- EAST CHAMPARAN
 4. RUPESH PASWAN SON OF KRISHNA PASWAN RESIDENT OF VILLAGE - KOIRGAWAN BINTOLI, P.S.- SANGRAMPUR, DISTT- EAST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh
For the Opposite Party/s : Mr. Rana Randhir Singh

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 17-05-2024 1. Heard learned counsel for the petitioners and learned A.P.P. for the State.
2. The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 30(a), 41(1) of the Bihar Excise Act.
3. Learned counsel for the petitioners submits that the petitioner no. 1 has antecedent of four cases, petitioner no. 2 has antecedent of three cases, petitioner no. 3 is a person with clean



antecedent and petitioner no. 4 has antecedent of three cases and allegation is of recovery of 132 liters of liquor from the house of the petitioners as detailed in the FIR.

4. Learned counsel for the petitioners submits that the petitioners were not arrested from the spot as such nothing was recovered from their conscious possession and after the amendment in the Excise Act in the year 2018, the concept of deemed possession and presumed offender has been done away with. It is also submitted that petitioners came to be implicated at the instance of local villager, but then it absolutely does not stand to reason that if the local villager was aware of the involvement of the petitioners in the occurrence then why he did not inform the police prior to institution of the instant FIR which casts an aspersion on the case of the prosecution.

5. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners.

6. 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 trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 20,000/- (Rupees Twenty Thousand) each with two sureties of the like



amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Turkauliya (Banjariya) P.S. Case No. 1291 of 2023 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

7. However, it is made clear the learned Trial Court before accepting the bail bonds of the petitioners shall verify their criminal antecedent and in the event if it is found that petitioner no. 1 has antecedent of more than 4 cases and petitioner no. 2 has antecedent of more than 3 cases, petitioner no. 3 has antecedent of even one case and petitioner no. 4 has antecedent of more than 3 cases in that event, the present anticipatory bail order shall not be given effect to.

(Satyavrat Verma, J)

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