

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34247 of 2024

Arising Out of PS. Case No.-437 Year-2023 Thana- CHHATAPUR District- Supaul

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1. Mukesh Sardar S/o Late Bhagwat Sardar R/o vill - Mahmadganj, Ward No. 13, P.S - Chhatapur, Distt. - Supaul
 2. Geeta Devi @ Most. Geeta Devi W/o Late Bhagwat Sardar R/o vill - Mahmadganj, Ward No. 13, P.S - Chhatapur, Distt. - Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arun, Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

2 14-05-2024 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 offence punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. Learned counsel for the petitioners submits that petitioners are persons with clean antecedent and petitioner no. 2 is a woman.

4. Allegation is of recovery of 10 litres of liquor from the house of Urmila Devi, 10 litres of liquor from the house of Fekani Devi, 15 litres of liquor from the house of petitioner no. 1 and 15 litres of liquor from the house of petitioner no. 2.

5. Learned counsel for the petitioners submits that



petitioners were not arrested from the spot, as such, nothing was recovered from their 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 is further submitted that petitioners came to be implicated at the instance of the local person but then the name of the person who disclosed the name of the petitioners is not disclosed in the FIR which casts an aspersion on the case of the prosecution. It is next submitted that if the local person was aware of the involvement of petitioners in the occurrence then why he/she did not inform the police prior to the institution of the instant FIR which further casts an aspersion on the case of the prosecution.

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

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 from today, be released on anticipatory bail on furnishing bail bonds of Rs.500/- (Rupees Five Hundred) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is



pending/successor court in connection with Chhatapur (Rajeshwari O.P.) P.S. Case No. 437 of 2023, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

8. However, the learned trial court, before accepting the bail bonds of the petitioners, shall verify the criminal antecedent of the petitioners and if it is found that petitioners have antecedent of even one case in that event the present anticipatory bail order shall not be given effect to.

(Satyavrat Verma, J)

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