

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35465 of 2024

Arising Out of PS. Case No.-100 Year-2024 Thana- BABUBARHI District- Madhubani

1. Laxman Paswan Son of Soti Paswan Resident of Village- Mohanpur, P.S.- Babubarhi, District- Madhubani
2. Amrabati Devi Wife of Laxman Paswan Resident of Village- Mohanpur, P.S.- Babubarhi, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Jha, Advocate
For the Opposite Party/s : Mr. Abhay Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 20-07-2024 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 272 and 273/34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.
3. Learned counsel for the petitioners submits that petitioner no. 1 has antecedent of one case and petitioner no. 2 is a person with clean antecedent and is a woman.
4. Allegation is of recovery of 28 litres of liquor from the house and shop of the petitioners as detailed in the FIR.
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 the house in question is a joint family property, as such, it cannot be alleged with certainty that it was the petitioners who had kept the liquor in the house or the liquor kept in the house was within their knowledge. It is next submitted that no prudent person would use his own business premises for committing an occurrence and thus would bring disrepute to his business. It is also submitted that it appears that some customer on seeing the police, left the liquor in the shop and fled away.

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.5,000/- (Rupees Five Thousand) 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 Babubarhi P.S. Case



No. 100 of 2024, 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 petitioner no.
1 has antecedent of more than one case and petitioner no. 2 has
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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