

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.38428 of 2024**

Arising Out of PS. Case No.-879 Year-2023 Thana- DANAPUR District- Patna

1. Binod Sahani @ Binod Kumar Son Of Late Ram Babu Chaudhary, Village -Banpar Toli PS- Danapur, District -Patna.
2. Naresh Sahani @ Naresh Chaudhary @ Lichi Son Of Lakhan Chaudhary, Village -Banpar Toli PS- Danapur, District -Patna.
3. Ramjee Sahani @ Ramjee Chaudhary Son Of Sohrai Sahani, Village -Banpar Toli PS- Danapur, District -Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Ashok Sinha, Advocate  
For the Opposite Party/s : Ms. Asha Kumari, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

2      26-06-2024                      Heard Mr. Ashok Sinha, the learned counsel for the petitioners and Ms. Asha Kumari, the learned Additional Public Prosecutor for the State.

2.                      The petitioners are apprehending their arrest in connection with Danapur PS Case No. 879 of 2023, FIR dated 05.07.2023, registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3.                      Recovery is of 48 litres of beer and 750 mL of whisky.

4.                      Learned counsel for the petitioners submits that petitioners have clean antecedent and they have falsely been



implicated in the present case on the basis of disclosure made by the co-accused person namely, Mukesh Kumar and except the aforesaid, no other cogent material has come during investigation which suggests the involvement of the petitioners in the present occurrence and the petitioners are neither the owner nor the driver of the vehicle in question and they have no concern at all with the allegedly recovered liquor.

5. The 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 and circumstances and the fact that nothing has been recovered from conscious



possession of the petitioners, rather the recovery has been made from the vehicle in question, petitioners have clean antecedent and disclosure is made by a co-accused person, let the petitioners, above-named, in the event of their arrest or surrender before the learned trial Court within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Excise Judge, Danapur, Patna, where the case is pending in connection with **Danapur PS Case No. 879 of 2023**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the following conditions:-

(i). Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the learned trial Court and shall remain physically present as directed by the learned trial Court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the learned trial Court.

(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 learned



trial Court 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 learned trial Court shall take step for cancellation of bail bond 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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