

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39721 of 2024

Arising Out of PS. Case No.-60 Year-2024 Thana- TARIYANI CHOWK District- Sheohar

1. Sriram Sahni @ Shriram Sahni S/o Sukhari Sahni @ Sukhari Shani, Resident of Village- Kushahar, PS- Tariyani, District- Sheohar.
2. Rajesh Sahni S/O Sukhari Sahni @ Sukhari Shani, Resident of Village- Kushahar, PS-Tariyani, District- Sheohar.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Sunil Prasad Singh, Advocate

For the Opposite Party/s : Mr. Bharat Lal, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 10-07-2024 Heard Mr. Sunil Prasad Singh, the learned counsel

for the petitioners and Mr. Bharat Lal, the learned Additional

Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in

connection with Tariyani PS Case No. 60 of 2024, FIR dated

30.03.2024, registered for the offences punishable under

Sections 30(a) and 41(1) of the Bihar Prohibition and Excise

Act.

3. Recovery is of 900 litres of semi-finished liquor

and 200-200 litres of semi-finished liquor.

4. Learned counsel for the petitioners submits that

petitioners have falsely been implicated in the present case and



the allegation levelled in the FIR is false and fabricated and the petitioners have not committed any offence as alleged in the FIR. He further submits that according to the FIR and seizure list it appears that recovery has been made from the side of *pokher* of one Lalbabu Rai and petitioner has no concern at all with the allegedly recovered liquor or with Lalbabu Rai. He further submits that petitioner has been made accused in the present case merely on the ground of suspicion and their previous criminal antecedents. 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 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. He also submits that petitioner no. 1 carries two criminal antecedents of similar nature, but fairly admits that petitioner no. 1 is on bail in the pending matters and petitioner no. 2 carries one criminal antecedent of similar nature.

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, 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 Exclusive Special Judge, Excise, Sheohar, where the case is pending in connection with **Tariyani PS Case No. 60 of 2024**, 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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