

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43695 of 2024

Arising Out of PS. Case No.-34 Year-2024 Thana- RAJPUR District- Rohtas

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1. Pappu Singh S/O Deena Nath Singh R/O Village-Dehri, P.S.-Rajpur, Distt-Rohtas at Sasaram
 2. Bhim Singh @ Umashakar Kumar S/O Deena Nath Singh R/O Village-Dehri, P.S.-Rajpur, Distt-Rohtas at Sasaram

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Chhote Lal Mishra, Advocate
For the Opposite Party/s : Mr. Pranav Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 14-08-2024 Heard Mr. Chhote Lal Mishra, learned counsel for the petitioners and Mr. Pranav Kumar, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Rajpur P.S. Case No. 34 of 2024, F.I.R dated 27.03.2024 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 40 liters of country made liquor.

4. Learned counsel for the petitioners submits that the petitioners have clean antecedent and they have falsely been implicated in the present case. He further submits that it appears from the F.I.R that altogether 40 liters of country made liquor,



old CD, Diesel Engine Pump set of Swaraj Company, one yellow colour pipe and other articles have been recovered from the place of occurrence. He further submits that it appears from the F.I.R as well as seizure list that no incriminating articles have been recovered from the conscious possession of the petitioners and the name of the petitioners has been transpired on the basis of the secret information. He further submits that the co-accused, namely, Jayprakash Kumar Paswan @ Jai Prakash Paswan @ JP has been granted anticipatory bail by this Court vide order dated 10.07.2024 passed in Cr. Misc. No. 37466 of 2024 and other accused persons namely, Uma Shankar Pasi @ Uma Shankar Ram and others have been granted anticipatory bail by a Co-ordinate Bench of this Court vide order dated 18.07.2024 passed in Cr. Misc. No. 38381 of 2024. 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 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 petitioner.

7. Considering the aforesaid facts that nothing has been recovered from conscious possession of the petitioners, co-accused persons have been granted anticipatory bail by this Court and by Co-ordinate Bench of this Court and the petitioners have clean antecedent, let the petitioners, above named, in the event of their arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on 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 Excise Court No. 2-cum- ADSJ, Rohtas at Sasaram in connection with Rajpur P.S. Case No. 34 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following



conditions:-

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

2. If the petitioners tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below 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 court below 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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