

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47848 of 2024

Arising Out of PS. Case No.-34 Year-2024 Thana- GANGTA District- Munger

1. Gunda Kora Son Of Shibu Kora Resident Of Vill- Naudiha, P.S.- Lakshmipur, District- Jamui.
2. Gujjar Kora Son Ramji Resident Of Vill- Chookiya, P.S.- Lakshmipur, District- Jamui.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kumar Kamal Nayan, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-08-2024 Heard Mr. Kumar Kamal Nayan, learned counsel for the petitioners and Mr. Bharat Lal, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest connection with Gangta P.S. Case No. 34 of 2024, F.I.R. dated 06.05.2024 registered for the offences punishable under Sections 30(a)/32/30(c)/53(c) of the Bihar Prohibition & Excise Act, 2022 and Sections 2(c)/3/5(b)/18 of the Bihar Excise (Mahua Flower) Rules, 2006.

3. Recovery is of 510 liters of *illegal country made liquor*.

4. Learned counsel for the petitioners submits that the



petitioners have clean antecedents and they have falsely been implicated in the present case. He further submits that from perusal of the F.I.R. it appears that nothing has been recovered from the conscious possession of the petitioners and as per F.I.R. altogether 510 litres of illegal country made liquor was recovered from the place of occurrence and the name of the petitioners have been transpired on the basis of disclosure made by co-accused persons namely Mannu Kora, Naresh Kora and Ranjit Kora and except the aforesaid, no other material has come during investigation to suggest the involvement of the petitioners in the present occurrence. Therefore, the recovery cannot be attributed to the petitioners. 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 petitioners.

7. Considering the aforesaid facts, nothing has been recovered from conscious possession of the petitioners and the name of the petitioners have been transpired on the basis of disclosure made by co-accused persons as well as the petitioners having clean antecedents, 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 learned Exclusive Special Excise Court No. 1, Munger in connection with Gangta PS. 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 bonds 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 antecedents, 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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