

Arising Out of PS. Case No.-109 Year-2024 Thana- KATIHAR MUFFASIL District- Katihar

- Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

For the Petitioner/s : Mr.Bimal Kumar
For the Opposite Party/s : Mr.Indu Kumari Srivastava

2 12-07-2024 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 offence punishable under Section 30(a) of Bihar Prohibition and Excise Act.

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 allegation is of recovery of 48 litres of liquor from the house of petitioner no.2, 600 litres of liquor from the poultry farm of petitioner no.1 and 24 litres each from a Tata Indigo Car and a Bolero pick-up vehicle. It is next submitted 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 also submitted that the house in question is a joint family property as such it cannot be alleged with certainty that it was petitioners, who had kept the liquor in the house or the liquor kept in the house was within their knowledge and similarly the business is a partnership business, as such, it cannot be alleged that it was within the knowledge of petitioner no.1 that liquor was kept in the poultry farm. It is next submitted that petitioners are not the owner of any of the seized vehicle and they came to be implicated based on confessional statement of apprehended accused in police custody which does not have any evidentiary value in the eye of law.

4. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners.

5. 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.5000/- (Rupees five thousand) each with two sureties of the like amount each to



the satisfaction of the learned trial court where the case is pending/successor court in connection with Katihar Muffasil P.S. Case No.109/2024, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

6. It is made clear that the learned trial court before accepting the bail bonds of the petitioners shall verify the criminal antecedents of the petitioners and in the event 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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