

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47840 of 2024

Arising Out of PS. Case No.-228 Year-2024 Thana- BASANTPUR District- Siwan

1. Ravish Kumar Son Of Ajay Singh resident of Village- Jagatpur Anand Tola, Ps- Basantpur (Lakari Nabiganj O.P), Dist- Siwan
2. Guddu Kumar Singh Son Of Ramayodhya Singh resident of Village- Jagatpur Anand Tola, P.S- Basantpur (Lakari Nabiganj O.P), Dist- Siwan
3. Angad Singh @ Angad Kumar Son Of Tarkeshwar Singh resident of Village- Jagatpur Anand Tola, Ps- Basantpur (Lakari Nabiganj O.P), Dist- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Bardhan Pandey, Advocate
For the Opposite Party/s : Mrs. Veena Kumari Jaiswal, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 07-08-2024 Heard Mr. Vijay Bardhan Pandey, learned counsel
for the petitioners and Mrs. Veena Kumari Jaiswal, learned
Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest
connection with Basantpur (Lakari Nabiganj O.P.) P.S. Case No.
228 of 2024, F.I.R. dated 23.04.2024 registered for the offences
punishable under Section 30(a) of the Bihar Prohibition &
Excise Act, 2016.

3. Recovery is of 241.90 liters of *illegal mahua*
liquor.

4. Learned counsel for the petitioners submits that the



petitioners have clean antecedents and they have falsely been implicated in the present case on the basis of suspicion and disclosure made by local choukidar. He further submits that it appears from the F.I.R. as well as seizure list that nothing has been recovered from the possession of the petitioners rather recovery has been made from the vehicle in question and the petitioners are neither the driver nor the owner of the vehicle in question and they have no concern at all with the alleged recovery of illicit liquor. 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 possessions of the petitioners and the name of the petitioners have been transpired on the basis of disclosure made by local choukidar as well as 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-1. Siwan in connection with Basanput (Lakari Nabiganj O.P.) PS. Case No. 228 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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