

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64492 of 2024

Arising Out of PS. Case No.-360 Year-2024 Thana- BRAHMPUR District- Buxar

Gupteshwar Bind @ Gopu Bind @ Gupu Bind @ Gopu Bin S/O Harinarayan Bin @ Hari Bin R/O Village- Bhariyar, Ps- Brahmpur Chakki Op, District- Buxar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 65675 of 2024

Arising Out of PS. Case No.-360 Year-2024 Thana- BRAHMPUR District- Buxar

Gobind Gond Son of Dhural Gond Resident of Village - Arak, P.S.- Brahampur, District - Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 64492 of 2024)
For the Petitioner/s : Mr. Ravi Shankar Pathak, Advocate
For the Opposite Party/s : Mr. Narsingh Tanti, APP
(In CRIMINAL MISCELLANEOUS No. 65675 of 2024)
For the Petitioner/s : Mr. Arun Kumar Gupta, Advocate
For the Opposite Party/s : Mr. Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-10-2024 Heard the parties.

2. The petitioners are apprehending their arrest in connection with Brahmpur (Chakki O.P.) P.S. Case No. 360 of 2024, F.I.R. dated 25.07.2024 registered for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act.



3. Recovery is of 144 liters of illicit liquor from 14 cartoons.

4. Learned counsel for the petitioners submit that the petitioners are innocent and they have falsely been implicated in the present case. He further submits that it appears from the F.I.R as well as seizure list that nothing has been recovered from the conscious possession of the petitioners. He further submits that the name of the petitioners have been transpired in this case on the basis of the disclosure made by the co-accused person, namely, Govind Chaudhary and except the aforesaid no other cogent material has come during the investigation to suggest the involvement of the petitioners in the present occurrence. 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. 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 further submits that petitioners carry one more



case other than the present one but fairly submits on the basis of the paragraph no.3 of the bail petitions that the petitioners are on bail in the pending matter.

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, 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 Excise Special Judge Court No.2, Buxar in connection with Brahmpur (Chakki O.P.) P.S. Case No. 360 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

i. 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.

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 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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