

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67261 of 2024

Arising Out of PS. Case No.-217 Year-2024 Thana- CHAUTHAM District- Khagaria

1. Bijay Kumar @ Bijay Singh @ Vijay Kumar Son of Late Satya Narayan Singh
2. Smt Sanju Devi Wife of Bijay Kumar @ Bijay Singh @Vijay Kumar Both are Resident of Village- Bharpur, Ps- Chautham, Dist- Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vindhayachal Singh, Sr. Advocate Mr. Vipin Kumar Singh, Advocate
For the Opposite Party/s	:	Mr. Shyam Bihari Singh, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 13-09-2024 Heard learned Senior Counsel for the petitioners as well as learned APP for the State.

2. The petitioners seek bail in anticipation of their arrest in a case registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act in connection with Chautham P.S. Case No.217 of 2024

3. The learned Senior Counsel for the petitioners submit that the petitioner no.1 has antecedent of one case and petitioner no.2 is a person with clean antecedent and is a women and the allegation is of recovery of 04 liters of liquor from courtyard of the house of the petitioner.

4. 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 and the house in question is a joint family property as such it cannot be alleged with certainty that it were the petitioners who had kept the liquor in the house or the liquor kept in the house was within the knowledge of the petitioners and they came to be implicated at the instance of local people, but then police in majority of the cases implicates either at the instance of the 'Chowkidar', local person, secret information or confessional statement in a mechanical manner without holding proper investigation.

5. The learned APP for the State opposes the anticipatory bail application.

6. 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, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs.5000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Excise Judge, Ist, Khagaria in connection with Chautham P.S. Case No.217 of 2024, subject to the conditions laid down under Section 438(2)



of the Cr.P.C.

7. However, the learned trial court before accepting the bail bonds of the petitioners shall verify the criminal antecedent 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.

8. The application stands allowed.

(Satyavrat Verma, J)

Prakash Narayan

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