

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67743 of 2024

Arising Out of PS. Case No.-520 Year-2018 Thana- RAMKRISHNANAGAR District- Patna

1. Tunnu Yadav @ Tuntun Yadav
2. Jitan Yadav
Both Sons of Laxuman Yadav @ Laxman Yadav, Resident of village- Asho
Chak Ps- Ramkrishna Nagar District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arvind Kumar, Advocate

For the Opposite Party/s : Mr.Arun Kumar,APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 03-10-2024 Heard Mr.Arvind Kumar, learned counsel for the

petitioners and Mr.Arun Kumar,learned Additional Public

Prosecutor for the State.

2. The petitioners are apprehending their arrest in
connection with Special Case No.11276 of 2018 arising out of
Ramkrishna Nagar P.S.Case No.520 of 2018,FIR dated
22.11.2018 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise (Amendment) Act, 2018.

3. Recovery is of 30 liters of illicit liquor.

4. Learned counsel for the petitioners submits that the
petitioners have falsely been implicated in the present case. It
appears from the FIR as well as the seizure list that nothing has



been recovered from conscious possession of the petitioners. In the present case, recovery has been made from two places and first recovery has been made from the house of Nepali and Chandan and second recovery has been made behind the house of the petitioner in the Banana Orchard. Learned counsel for the petitioners submits that the petitioners have been made accused in the present case merely on the basis of suspicion and secret information and except the aforesaid, no other material has come during investigation against the petitioners 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 A.P.P. for the State has vehemently opposed the prayer for 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. Further submits that petitioner No.1 carries two more cases of similar nature other than the present one but fairly submits that he is on bail in both the cases, and petitioner No.2 carries one more case of similar nature other than the



present one but fairly submits that he is on bail in the said case, as mentioned in para-3 of the bail petition.

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) PLJR 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 and nothing has been recovered from conscious possession of the petitioners, 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 Special Judge Excise-II, Patna in connection with Special Case No.11276 of 2018 arising out of Ramkrishna Nagar P.S.Case No.520 of 2018, 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 bond 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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