

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67630 of 2024

Arising Out of PS. Case No.-73 Year-2024 Thana- CHAORI District- Bhojpur

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1. Dharmendra Choudhary S/o Vishun Choudhary @ Vishun Prasad Chaudhary
R/o vill - Andhari, P.S. - Chaori, Distt. - Bhojpur
 2. Biki Kumar S/o Kanhai Choudhary R/o vill - Andhari, P.S. - Chaori, Distt. -
Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

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

petitioners and Mr. Mritunjay Kumar Nirala, learned Additional

Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in
connection with Chaori P.S. Case No. 73 of 2024, F.I.R dated
23.06.2024 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise Amendment Act, 2018.

3. Recovery is of 60 liters of country made liquor.

4. Learned counsel for the petitioners submits that
the petitioners have clean antecedent and they have falsely been
implicated in the present case. He further submits that it appears
from the F.I.R that nothing has been recovered from the



conscious possession of the petitioners rather the recovery has been made near Sone Diara in front of Surya Mandir. He further submits that the name of the petitioners has been transpired on the basis of the statement made by the local chaukidar and except the aforesaid, no other material has come during investigation which 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. 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 that nothing has been recovered from conscious possession of the petitioners, name of the petitioners has been transpired on the basis of the disclosure made by the local chaukidar and the petitioners have clean antecedent, 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 Special Excise Court No. 1, Bhojpur, Ara in connection with Chaori P.S. Case No. 73 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 bond shall be cancelled by the Court below.

ii. 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.

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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