

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72811 of 2024

Arising Out of PS. Case No.-119 Year-2024 Thana- BANJARIA District- East Champaran

1. Sanjay Sahani @ Sanjay Kumar S/O Shambhu Sahani R/O Village- Jhakhiya, P.S- Banjariya, Distt.- East Champaran.
2. Ajay Sahani @ Ajay Kumar S/O Shambhu Sahani R/O Village- Jhakhiya, P.S- Banjariya, Distt.- East Champaran.
3. Akshay Sahani @ Akshay Kumar S/O Shambhu Sahani R/O Village- Jhakhiya, P.S- Banjariya, Distt.- East Champaran.
4. Golu Sahani @ Golu Kumar S/O Shambhu Sahani R/O Village- Jhakhiya, P.S- Banjariya, Distt.- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Priyesh Kumar

For the Opposite Party/s : Mr. Ramchandra Sahni

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 05-10-2024 1. Heard learned counsel for the petitioners and learned A.P.P. for the State.
2. The petitioners apprehend their arrest in a case registered for the offence punishable under Sections 272, 273 of the Indian Penal Code and Sections 30(a), 41 and 45 of Bihar Prohibition and Excise (Amendment) Act.
3. Learned counsel for the petitioners submits that petitioner no.1 has antecedent of three cases and petitioner no.2, 3 and 4 have antecedent of two cases and allegation is of recovery of 8.64 litres of liquor from the shop of Golu Sahni



(Petitioner no.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. It is also submitted that the shop in question is a joint shop as such it cannot be alleged with certainty that it was petitioner, who had kept the liquor in the shop or the liquor kept in the shop was within their knowledge. It is also submitted that it appears that someone inimical to the petitioners planted meager amount of liquor in the shop with evil intention and the petitioners came to be implicated based on confessional statement of Chandra Kishor and Ajay Rai in police custody, which does not have any evidentiary value.

4. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners.

5. 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 from today, be released on anticipatory bail on furnishing bail bonds of Rs.15000/- (Rupees fifteen thousand) each with two sureties of the like amount each to the satisfaction of the learned trial court where the case is



pending/successor court in connection with Banjaria P.S. Case No.119/2024, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

6. It is made clear that the learned trial court before accepting the bail bonds of the petitioners shall verify the criminal antecedents of the petitioners and in the event if it is found that petitioner no.1 has antecedent of more than three cases and petitioner no.2, 3 and 4 have antecedent of more than two cases, in that event, the present anticipatory bail order shall not be given effect to.

(Satyavrat Verma, J)

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