

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82254 of 2023

Arising Out of PS. Case No.-313 Year-2023 Thana- KASBA District- Purnia

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1. RAJAN MAHTO @ RAJESH MAHTO S/O GANGA MAHTO RESIDENT OF VILLAGE- KULLAKHAS DOGACHHCHI, WARD NO. 03, PS. KASBA,DIST. PURNEA
 2. POONAM DEVI W/O RAJAN MAHTO RESIDENT OF VILLAGE- KULLAKHAS DOGACHHCHI, WARD NO. 03, PS. KASBA, DIST. PURNEA
 3. GUDDU KUMAR S/O RAJAN MAHTO RESIDENT OF VILLAGE- KULLAKHAS DOGACHHCHI, WARD NO. 03, PS. KASBA, DIST. PURNEA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ramesh Kumar Singh, Advocate
For the Opposite Party/s : Mr. Ashok Kumar Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 21-02-2024 1. Learned counsel for the petitioners seeks permission to rectify the description of petitioner no. 2 in course of the day.
2. Permission is accorded.
3. Heard learned counsel for the petitioners and learned A.P.P. for the State.
4. The petitioners apprehend their arrest in a case registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.
5. Learned counsel for the petitioners submits that petitioners are persons with clean antecedent.



6. Allegation is of recovery of 6.26 litres of liquor and one bottle of beer containing 500 ml. from the shop of the petitioners.

7. Learned counsel for the petitioners submits that petitioners were not arrested from the spot, as such, nothing was recovered from their conscious possession. It is further submitted that the alleged recovery is shown to have been made from the shop of the petitioners but then no independent witness has signed the seizure list as the seizure list has been signed by the police personnel. It is next submitted that the shop is a family business as such it cannot be alleged that it was the petitioners who had kept the liquor in the shop when after amendment in the Excise Act in the year 2018 the concept of deemed possession and presumed offender has been done away with.

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

9. 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.500/- (Rupees



Five Hundred) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Kasba P.S. Case No. 313 of 2023, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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