

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9293 of 2024

Arising Out of PS. Case No.-440 Year-2023 Thana- BATHNAHA District- Sitamarhi

1. Radheshyam Sah S/o Late Yogendra Sah R/o village- Kishanpur, Ward No. 11, P.S. Bathnaha, Distt. Sitamarhi
2. Bimal Kumar @ Bimal sah S/o Radheshyam Sah R/o village- Kishanpur, Ward No. 11, P.S. Bathnaha, Distt. Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Birendra Kumar
For the Opposite Party/s : Ms. Pushpa Sinha.1

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 27-02-2024 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 offences punishable under Section 30(a) of the Bihar Excise Act.

3. Learned counsel for the petitioners submits that the petitioner no. 1 has antecedent of two cases and petitioner no. 2 has antecedent of one case and allegation is of recovery of 2 liters of beer from the house of the petitioners.

4. Learned counsel for the petitioners submits that the petitioners were not arrested from the spot as such nothing was recovered from their conscious possession and they came to be implicated based on the fact that they are the owner of the house but then the house is a joint family property, as such, it cannot



be alleged with certainty that it were the petitioners who had kept the beer in the house or the beer kept in the house was within their knowledge. It is also submitted that after the amendment in the Excise Act in the year 2018, the concept of deemed possession and presumed offender has been done away with.

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

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 trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten 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 Bathnaha P.S. Case No. 440 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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