

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2069 of 2024

Arising Out of PS. Case No.-218 Year-2023 Thana- TARAIIYA District- Saran

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1. Sikander Kumar Sahani @ Sikander Kumar S/o Baidhnath Sahani, R/o Village-Bakajua (Chorma), P.S.-Bhagwanpur Hat, District-Siwan.
 2. Ritesh Kumar @ Ritesh Kumar Sahani, S/o Dharmendra Sahani, R/o Village-Newari (Nara), P.S.-Taraiya, District-Saran.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjay Kumar Singh, Advocate
For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 31-01-2024 Heard Mr. Ranjay Kumar Singh, learned counsel
for the petitioners and Mr. Ashok Kumar Singh, learned
Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Taraiya P.S. Case No. 218 of 2023, F.I.R. dated 07.07.2023 for the offences punishable under Sections 30(a), 32(1)(2), 38, 41(1)(2) of the Bihar Prohibition and Excise Act.

3. Recovery is of 218.340 litres of English wine.

4. Learned counsel for the petitioners submits that the petitioners have clean antecedent and has falsely been implicated in the present case on the basis of the disclosure made by the co-accused person. He further submits that the allegation as alleged in the F.I.R is false and fabricated. He



further submits that except the disclosure made by the co-accused person there is nothing to suggest the involvement of the petitioner in the present case. He further submits that 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 petitioner 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, nothing has been recovered from conscious possession of the petitioners 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 bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 3rd Exclusive Special Excise Judge, Saran at Chhapra in connection with Taraiya P.S. Case No. 218 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

1. 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, his bail bond shall be cancelled by the Court below.

2. 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.

3. 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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