

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2047 of 2024

Arising Out of PS. Case No.-317 Year-2023 Thana- KEWATI District- Darbhanga

1. Anish Kumar Yadav Son Of Arun Kumar Yadav Resident Of Village-Nanaura, Police Station- Keoti, District- Darbhanga
2. Rohit Sah @ Rohit Kumar Sah Son Of Rajo Sah Resident Of Village-Nanaura, Police Station- Keoti, District- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nilendu Kumar Choudhary, Advocate
For the Opposite Party/s : Mr. Ahmad Ali, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 31-01-2024 Heard Mr. Nilendu Kumar Choudhary, learned counsel for the petitioners and Mr. Ahmad Ali, learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Keoti P.S. Case No. 317 of 2023, F.I.R. dated 29.10.2023 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

3. Recovery is of 111.030 of illicit liquor from the Scorpio vehicle.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R is false and fabricated. He further submits that it



appears from the F.I.R that nothing has been recovered from the conscious possession of the petitioner rather the recovery has been made from a Scorpio in question. He further submits that petitioner is neither the owner nor the driver of the said Scorpio vehicle. 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 and submits that petitioner no.2 carries two criminal antecedent other than the present one. He further submits that 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, 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 Special Judge Excise-I, Darbhanga in connection with Keoti P.S. Case No. 317 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. Petitioner 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 bonds 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 bonds 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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