

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1901 of 2024

Arising Out of PS. Case No.-101 Year-2023 Thana- PARWALPUR District- Nalanda

1. Mukesh Chauhan S/O Ram Sundar Chauhan R/O Village-Fatehpur, P.S.-PARWALPUR, District-Nalanda
2. Nitu Devi W/O Mukesh Chauhan R/O Village-Fatehpur, P.S.-PARWALPUR, District-Nalanda

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate

For the Opposite Party/s : Ms. Meena Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

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

2. The petitioners are apprehending their arrest in connection with Parwalpur P.S. Case No. 101 of 2023, F.I.R dated 15.06.2023 registered for the offences punishable under Sections 147, 148, 149, 323, 448, 341, 427, 353, 307, 504 and 506 of the Indian Penal Code and Section 30(a) of Bihar Prohibition and Excise Act.

3. Recovery is of 10 liters of country made Chulai wine.

4. Learned counsel for the petitioners submits that



the petitioner no. 2 has clean antecedent and petitioner no. 1 carries one criminal antecedent other than the present one and they 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 and the petitioners have not committed any offences as alleged in the F.I.R. He further submits that the name of the petitioners has been transpired on the basis of disclosure made by the local chowkidar. He further submits that there is no specific allegation of any assault or overt act attributed against these petitioners and there is no injury report on record which suggests that any member of the police team has received injury. 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 petitioners 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. He further submits that the petitioner no. 1 carries one criminal antecedent other than the present one.



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 petitioner.

7. Considering the aforesaid facts, 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 bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge-IV cum Special Judge, Excise,II, Nalanda in connection with Parwalpur P.S. Case No. 101 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, their bail bond shall be cancelled by the Court below.

2. If the petitioners tampers 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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