

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85235 of 2024

Arising Out of PS. Case No.-967 Year-2024 Thana- MAHUA District- Vaishali

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1. Sima Devi W/O Pawan Sah R/O Village- Kushahar Khash P.S.- Mahua, District- Vaishali.
 2. Pawan Sah S/O Prameshwar Sah, R/O Village- Kushahar Khash P.S.- Mahua, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Hemant Kumar

For the Opposite Party/s : Mr.Sanjay Kumar Sharma

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 19-04-2025 1. Heard learned counsel for the petitioners and learned APP for the State.
2. The petitioners seek bail in anticipation of their arrest in a case registered for the offences punishable under Section 30(a) of the Excise Act.
3. The learned counsel for the petitioners submits that the petitioners are persons with clean antecedent and petitioner no.1 is a woman and allegation is of recovery of 102.750 litres of liquor from house of the petitioners.
4. The learned counsel for the petitioners submits that petitioners were not arrested from the spot, as such, nothing was recovered from their conscious possession and after Amendment



in the Excise Act, 2018, the concept of deemed possession and presumed offender has been done away with. It is also submitted that even the house in question is a joint family property and thus, it cannot be alleged with certainty that it was the petitioners, who had kept the liquor in the house or the liquor kept in the house was within their knowledge and they came to be implicated at the instance of Chaukidar with whom petitioner no.2 is on an inimical term. It is further submitted that if Chaukidar was aware of the involvement of the petitioners in the occurrence, then why he did not inform the police prior to institution of the present F.I.R., rather implicated the petitioners, who were husband and wife.

5. Learned A.P.P. opposes the anticipatory bail application.

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 Court below within a period of six weeks, are directed to be released on provisional anticipatory bail on their furnishing bail-bonds in the sum of Rs.500/- (Rupees Five Hundred) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge-II-cum-District and Sessions Judge,



Vaishali at Hajipur in connection with Mahua P. S. Case No.967 of 2024, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

7. The application stands allowed.

8. It is made clear that the learned trial Court after accepting the provisional bail bonds of the petitioners shall verify the criminal antecedent of the petitioners and in the event, if it is found that petitioners have antecedent of even one case, in that event, the present provisional anticipatory bail order shall not be confirmed, but if on verification, it is found that petitioners are persons with clean antecedent, in that event, the provisional anticipatory bail order shall be confirmed forthwith.

(Satyavrat Verma, J)

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