

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87239 of 2024

Arising Out of PS. Case No.-178 Year-2024 Thana- NAYAGAON District- Saran

1. Vijay Rai S/o Mahesh Ray R/o village - Bariyarchak, P.s. - Nayagaon, District- Saran.
2. Jamadar Rai S/o Mahesh Ray R/o village - Bariyarchak, P.s. - Nayagaon, District- Saran
3. Tuktuk Rai @ Tuktuk Kumar @ Tutu Kumar S/o Mahesh Ray R/o village - Bariyarchak, P.s. - Nayagaon, District- Saran
4. Masudhan Rai @ Masudan Kumar S/o Gaja Rai @ Gajindra Rai R/o village - Bariyarchak, P.s. - Nayagaon, District- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar Singh, Adv.
For the Opposite Party/s : Mr. Abhay Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL ORDER

3 17-01-2025 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners apprehend their arrest in connection with Nayagaon P.S. Case No. 178 of 2024 registered for the offences punishable under Section 30(a) of the Bihar Excise Act.

3. As per prosecution case, the police has recovered total 155 litre of illicit country-made liquor from the bank of the pond.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have committed no offence as alleged against them and have falsely been implicated in the



present case. He further submits that nothing incriminating has been recovered from the conscious possession of the petitioners as they were not apprehended at the spot. The names of the petitioners have transpired in this case on the basis of the statement of the crowd. The petitioner no.1 has two criminal antecedents, the petitioner no.2 has also two criminal antecedents, the petitioner no.3 has three criminal antecedents out of which two are of similar nature of offence and the petitioner no.4 has one criminal antecedent as has been stated in Para-3 of the present anticipatory bail application. The petitioners have no concern with the alleged occurrence or the seized liquor. There is a non-compliance of Section 103 of the B.N.S.S. which creates a serious doubt in the prosecution case.

5. Learned counsel for the petitioner further submits that the co-accused Pradeep Mahto @ Arjun Mahto and Chhotai Mahto @ Chhotelal Mahto have already been granted regular bail by this Court vide orders dated 29.10.2024 & 12.11.2024 passed in Cr. Misc. Nos. 77992 of 2024 and 79036 of 2024 respectively.

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

7. Considering the entire facts and circumstances of



the case and taking into account the submissions made by the learned counsel for the petitioners, let the petitioner nos.1, 2 & 4, above-named, in the event of their arrest or surrender before the learned Court below 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 court below where the case is pending/successor court in connection with Nayagaon P.S. Case No. 178 of 2024, subject to the conditions as laid down under Section 482 (2) of the B.N.S.S.

8. However, there being three criminal antecedents against the petitioner no.3 out of which two cases are of similar nature of offence, the prayer for anticipatory bail of the petitioner no.3, above named, is rejected.

9. If the petitioner no.3 surrenders before the court below within a period of four weeks from today and prays for regular bail, the same would be considered by the court below in accordance with law without being prejudiced by this order.

(Rudra Prakash Mishra, J)

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