

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.87319 of 2024

Arising Out of PS. Case No.-120 Year-2024 Thana- KRISHNAGARH District- Bhojpur

1.

Vikash Prasad Son of Ashok Prasad R/O- Saraiya, PS- Krishnagarh, District- Bhojpur at Ara
2.

Ashok Prasad son of Late Tarkeshwar Prasad R/O- Saraiya, PS- Krishnagarh, District- Bhojpur at Ara

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shashank Shekhar

For the Opposite Party/s : Mr.Binod Kumar

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

- 3

20-01-2025

1.

Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2.

This application for grant of anticipatory bail arises out of Krishnagarh Police Station Case No. 120 of 2024, dated 06.11.2024, disclosing offence under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

3.

The prosecution case, as per the First Information Report, is that the police, on secret information that the petitioners are selling liquor in the passage of the house of petitioner no. 2, raided the place of occurrence and on seeing the



police, two persons fled away, who were identified by the chowkidar and villagers as the petitioners. On search, the police recovered 60 litres of illicit country-made liquor from the passage of the house of petitioner no. 2.

4. Learned Counsel for the petitioner submits that the petitioners are innocent and have falsely been implicated in this case on the disclosure of their names by the chowkidar and villagers. He further submits that the petitioners have got no concern with the illicit liquor recovered inasmuch as the illicit liquor has been recovered from the passage of the house of petitioner no. 2, which is an open space. He further submits that the petitioners have got no criminal antecedent of similar nature of offence.
5. Regards being had to the submission advanced on behalf of the parties concerned and taking into consideration the fact that the petitioner no. 1 has got no criminal antecedent, his name transpired in this case by the chowkidar and the villagers, I am inclined to grant the petitioner no. 1 privilege of anticipatory bail.
6. This application, so far as petitioner no. 1 is concerned, is, accordingly, allowed.



7. Let the petitioner no. 1, above named, in the event of his arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No. I, Bhojpur, at Ara, in connection with Krishnagarh Police Station Case No. 120 of 2024, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.
8. However, taking into consideration the fact that from perusal of the First Information Report and the seizure list, it is apparent that the illicit liquor has been recovered from the house of the petitioner no. 2. Accordingly, on perusal of the First Information Report and the seizure list, a *prima facie* case is made out against the petitioner no. 2 and in view of the Full Bench decision of this Court, in **Criminal Appeal (S.J.) No. 431 of 2019 (Ram Vinay Yadav v. The State of Bihar)**, I am not inclined to exercise my discretion for grant of anticipatory bail to petitioner no. 2.
9. This application, so far as petitioner no. 2 is concerned, is dismissed.



10. However, if the petitioner no. 2 surrenders before the concerned Court and seeks regular bail, the same may be considered by the concerned Court on its own merit, if possible on the same date, without being prejudiced by the rejection of the present anticipatory bail application of the petitioner by this Court.

**(Anil Kumar Sinha, J.)**

Prabhakar Anand/-

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