

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.90309 of 2024

Arising Out of PS. Case No.-234 Year-2024 Thana- MANJHI District- Saran

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1. Vishwajit Chaudhary Son of Lalbabu Chaudhary
 2. Deepak Chaudhary son of Bail Chaudhary @ Maneshwar Chaudhary.
Both Resident Of Village -Katokhar, Ps -Manjhi, Dist- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Tiwary, Advocate
For the Opposite Party/s : Mr.Tarkeshwar Nath Thakur, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 31-01-2025 Heard Mr.Ajay Kumar Tiwary, learned counsel for
the petitioners and Mr.Tarkeshwar Nath Thakur, learned
Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in
connection with Manjhi P.S. Case No.234 of 2024, FIR dated
22.07.2024 registered for the offences punishable under Section
30(a) of Bihar Prohibition and Excise (Amendment) Act, 2022.

3. Recovery is altogether 30 liters of country made
liquor.

4. Learned counsel for the petitioners submits that the
petitioners have falsely been implicated in the present case. It
appears from the FIR as well as the seizure list that nothing has
been recovered from conscious possession of the petitioners and



the petitioners have been made accused in the present case merely on the ground that the recovery has been made from the backside of the house of the petitioners. Learned counsel for the petitioners submits that the petitioners have no concern at all with the alleged recovery of illicit liquor and they have been made accused in the present due to their previous criminal antecedent and co-accused person, namely, Arvind Chaudhary, against whom the allegation that the recovery has been made from his Paultry Farm, has been granted privilege of anticipatory bail by this Court vide order dated 01.10.2024 passed in Cr. Misc. No.64763 of 2024. 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. Learned A.P.P. for the State has vehemently opposed the prayer for 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. Further submits that petitioner No.1 carries one more case other than the present one but fairly submits that he is on bail in the said case, and petitioner No.2 carries two more cases other than the present one but fairly submits that he



is on bail in both the cases, as mentioned in para-3 of the bail petition.

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) PLJR 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 and 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 bond of Rs.10,000 (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, Excise, Court No.-II, Saran at Chapra in connection with Manjhi P.S. Case No.234 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/Section 482(2) of BNSS, 2023 and with other following conditions:-

(I) 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.

(II) 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.

(III) 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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