

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.16586 of 2020**

Arising Out of PS. Case No.-7 Year-2020 Thana- DEEPNAGAR District- Nalanda

1. ANIL KUMAR Son of Satendra Prasad @ Sato Mahto Resident at Umed Nagar, P.S.-Deep Nagar, District- Nalanda
2. Avishek Kumar @ Bipul Kumar Son of Sharwan Prasad Resident at Umed Nagar, P.S.-Deep Nagar, District- Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 21-08-2020 This matter is being adjourned since 14.07.2020 because learned counsel for the petitioners is not joining the proceeding. The order dated 14.07.2020 and 20.08.2020 are self-speaking.

Following the direction of this Court issued on 20.08.2020, the Court has been informed by the Bench Officer that Technical Assistant has telephonically informed learned counsel for the petitioners that the matter will be posted today by way of last indulgence. Link has also been sent to him today. There is no prayer for adjournment thus this Court has reasons to believe that learned counsel is avoiding putting appearance in this case.



Mr. Sanjay Kumar Sharma, learned APP for the State is again present.

In these circumstances, this Court is considering the present application on the basis of the materials available on the record.

The petitioners in the present case are seeking pre-arrest bail in connection with Deep Nagar P.S. Case No.07/2020 registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

From the First Information Report it appears that when the police party raided the orchard of Dr. Rameshwar where the illicit liquors were being sold, the accused persons present there started fleeing away. Three persons allegedly started fleeing. The Mahal Chaukidar identified all the three persons including these petitioners. In presence of two independent witnesses the seizure list has been prepared

Learned APP for the State has submitted that there being identification of these petitioners by Mahal Chaukidar, in view of the Bar created under Section 76(2) of the Bihar Prohibition and Excise Act, 2016 as also in view of the judgment of the Hon'ble Full Bench of this Court in the case of Ram Binay Yadav Vs. The State of Bihar reported in 2019(2)



PLJR 1089, the petitioners do not deserve privilege of anticipatory bail.

Having regard to the facts and circumstances of the case and there being identification of these petitioners by Mahal Chaukidar while fleeing away from the spot and considering that huge quantity of illicit liquors were being sold illegally, following the judgment of the Hon'ble Full Bench in the case of Ram Binay Yadav (supra), this Court is not inclined to grant privilege of anticipatory bail to the petitioners. The prayer is thus refused.

In case the petitioners surrender and pray for regular bail in the court below within four weeks from today, their prayer for regular bail shall be considered on its own merit without being prejudiced by the present order of this Court.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

