

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29889 of 2020

Arising Out of PS. Case No.-73 Year-2020 Thana- SILAO District- Nalanda

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1. MADHU YADAV S/o Late Tetar Yadav Resident of Village-Zinda Bigha, P.S.-Silao, District-Nalanda.
 2. Mirchai Yadav S/o Late Tetar Yadav Resident of Village-Zinda Bigha, P.S.-Silao, District-Nalanda.
 3. Mukesh Yadav S/o Madhu Yadav Resident of Village-Zinda Bigha, P.S.-Silao, District-Nalanda.
 4. Ganesh Yadav S/o Madhu Yadav Resident of Village-Zinda Bigha, P.S.-Silao, District-Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Raj Kishore Prasad,
		Mr. Ashok Kumar, Advocates
For the Opposite Party/s	:	Mr. Surendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 18-12-2020 Heard Mr. Raj Kishore Prasad, learned counsel for the petitioners and Mr. Surendra Kumar, Additional Public Prosecutor for the state through video conferencing.

2. Learned counsel for the petitioners submits that during pendency of this application, petitioner no.3, Mukesh Yadav and petitioner no.4, Ganesh Yadav, both sons of Madhu Yadav, have been arrested by the police and this application against them has become infructuous. Accordingly, learned counsel seeks permission to withdraw this application for anticipatory bail against petitioners no. 3 and 4.

3. Permission is accorded. This application,



accordingly, stands dismissed as withdrawn against petitioner no.3, Mukesh Yadav and petitioner no.4, Ganesh Yadav.

4. So far as petitioners no.1, Madhu Yadav and 2, Mirchai Yadav are concerned, they apprehend their arrest in connection with Silao PS Case No. 73 of 2020 registered for the offence punishable under Sections 30(a), 30(d) of Bihar Excise (Prohibition) Amendment Act, 2016.

5. The allegation against the petitioners, as per FIR, is that the police recovered total quantity of ten litres of illicit liquor from the house of the petitioner no.1, Madhu Yadav.

6. Learned counsel for the petitioners submits that the house in question is a joint family property and petitioners are not residing over there and they are residing in a different house situated at a different place. Learned counsel further submits that the petitioners have got no criminal antecedents.

7. Having regard to the submissions made by the parties and taking into consideration the material on record and the fact that illicit liquor has been recovered from the house of petitioner no.1, jointly owned by petitioner no.2 and keeping in view the Full Bench decision passed in the case of ***Ram Vinay Yadav v. State of Bihar*** in ***Cr. Appeal (SJ) No. 431/2019***, I am not inclined to grant anticipatory to the petitioner no.1 Madhu



Yadav and petitioner no. 2, Mirchai Yadav . Accordingly, the same is rejected.

8. However, if the petitioners surrender before the court below within a period of four weeks and seek regular bail the same may be considered on the same day on its own merit without being prejudiced to the fact that the present application for anticipatory bail of the petitioners has been rejected by this Court.

(Anil Kumar Sinha, J)

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