

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33218 of 2023

Arising Out of PS. Case No.-74 Year-2023 Thana- KHAGARIA District- Khagaria

1. RAMPRAVESH NONIYAN S/O SHANKAR NONIYAN R/O Village- Dan Nagar, Noniyan Patti, Ward No.-14, P.S and Distt.- Khagaria.
2. Jhusi Noniyan @ Jitendra Noniyan @ Jitendra Kumar S/O Ram Pravesh Noniyan R/O Village- Dan Nagar, Noniyan Patti, Ward No.-14, P.S and Distt.- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Santosh Kumar Singh, Advocate
For the Opposite Party/s : Mr. Md. Iftekhar Mahmood, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 24-06-2023 Learned counsel for the petitioners are permitted to remove the defect(s), as pointed out by the office, if any, within a period of three weeks from today.

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

As per order dated 24.05.2023, the application was filed on behalf of the petitioner No. 2, Jhusi Noniyan @ Jitendra Noniyan @ Jitendra Kumar was dismissed as withdrawn.

The petitioner is apprehending his arrest in connection with Khagaria P.S. Case No. 74 of 2023 dated 26.01.2023 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.



As per the prosecution case, 17.820 litres of foreign liquor was recovered from the house of the co-accused person Rohit Noniyan.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. He has further submitted that the petitioner has no concern with the seized liquor. Nothing has been recovered from the conscious possession of the petitioner hence, no case is made out against the petitioner. The petitioner is accused in one more criminal case as stated at para 3 of the bail petition. Learned Counsel has relied on the judgment of Full Bench of Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar reported in 2019 (2) PLJR 1089**. The Full Bench in the case of **Ram Vinay Yadav (supra)** has held that an application for anticipatory bail in a case arising out of Bihar Excise and Prohibition Act can be maintained, despite the bar under Section 76 (2) of the Act, if on the basis of allegation made in the FIR, no offence under the said provision is made out.

Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioner by submitting that the bar of Section 76(2) of the Act applies in this case.

Considering the aforesaid facts and circumstances of



the case as well as the nature of allegation against the petitioner, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on bail on furnishing bail-bond of Rs. 20,000/- (Rupees Twenty thousand) with two sureties of the like amount each to the satisfaction of learned Court concerned, Khagaria in connection with Khagaria P.S. Case No. 74 of 2023, subject to conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

This application stands allowed.

(Chandra Prakash Singh, J)

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