

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33949 of 2023

Arising Out of PS. Case No.-201 Year-2022 Thana- PHENHARA District- East Champaran

1. Sikandar Sahani Son Of Late Dhany Sahani Resident Of Village- Bishunpur Basant, Ps- Phenhara, Distt- East Champaran
2. Devendra Sahani @ Laddu Sahani Son Of Paras Sahani Resident Of Village- Bishunpur Basant, Ps- Phenhara, Distt- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhurendra Kumar, Advocate

For the Opposite Party/s : Mr.Raj Ballabh Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 24-06-2023 Learned counsel for the petitioners is 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.

The petitioners are apprehending their arrest in connection with Phenhara P.S. Case No. 201 of 2022 dated 17.12.2022 registered for the offences punishable under Sections 272 and 273 read with 34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act.

As per prosecution case, 35 litres of country made liquor has been recovered from the bank of river near the



poultry farm of the petitioner (Devendra Sahani) and three drums containing 200 litres raw material was also recovered from the place of occurrence.

Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. The petitioner No. 1 is accused in one more criminal case and petitioner No. 2 has clean antecedent as stated in para 3 of the bail petition. No incriminating article has been recovered from the possession of the petitioner, hence no case is made out. 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 anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, East Champaran, Motihari in connection with Phenhara P.S. Case No. 201 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

The application stands allowed.

(Chandra Prakash Singh, J)

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