

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45538 of 2023

Arising Out of PS. Case No.-106 Year-2023 Thana- BIBHUTIPUR District- Samastipur

1. Bipin Kumar @ Bipin Kumar Mahto Son Of Late Ram Suresh Mahto @ Late Suresh Mahto Resident of village - Chakhabib Turki, ward no. 7, P.S. - Bibhutipur, Distt. - Samastipur
2. Mahesh Kumar Son of Shanker Mahto Resident of village - Chakhabib Turki, ward no. 7, P.S. - Bibhutipur, Distt. - Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dilip Kumar Roy, Advocate
For the Opposite Party/s : Mr. Shaheen Begum, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 17-08-2023 Heard learned counsel for the petitioners and the State.

2. Petitioners apprehend arrest in a case registered for the offences punishable under Sections 272, 273, 420, 467, 468, 471, 120(B) of the Indian Penal Code and Sections 30(a), 30(b), 32, 41, 62 of Bihar Prohibition and Excise (Amendment) Act.

3. As per the prosecution case, 1439.25 litres of illicit liquor was recovered from the house of petitioner No.1 and there is no recovery of illicit liquor from petitioner No.2.

4. It is submitted that the petitioners are innocent and has falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioners and they are no way connected with the aforesaid



recovery. Petitioners claim clean antecedent.

5. Learned counsel for the State submits that the recovery has been made from the house of petitioner No.1, as such, the pre-arrest bail petition of petitioner No.1 is not maintainable in view of Full Bench decision of this Court rendered in the case of **Ram Vinay Yadav vs. The State of Bihar** reported in **2019(2) P.L.J.R. 1089 (F.B.)**.

6. Considering the aforesaid decision of this Court, the pre-arrest bail petition of petitioner No.1, Bipin Kumar is dismissed as not maintainable.

7. As far as petitioner No.2 is concerned, there is no recovery from him and he has got clean antecedent. In the event of arrest/surrender within six weeks from today, let the petitioner No.2, Mahesh Kumar be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge Excise-1, Samastipur, in connection with Bibhutipur P.S. Case No.106 of 2023, subject to the conditions laid down under section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Singh, J)

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