

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52638 of 2023**

Arising Out of PS. Case No.-163 Year-2023 Thana- DIGHA District- Patna

1. Chotu Kumar @ Vishwajeet Kumar, Son of Sri Yogendra Singh @ Jogindra Singh, Resident of Village- Maniyam Colony, P.S. - Digha, District- Patna
2. Ankur Kumar @ Amit Kumar, Son of Sri Yogendra Singh @ Jogindra Singh Resident of Village- Maniyam Colony, P.S. - Digha, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Lakshmi Kant Sharma, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 23-08-2023 Heard Mr. Vijay Kumar Sinha, learned counsel appearing on behalf of the petitioners and the learned APP for the State.

2. The petitioners are apprehending their arrest in connection with Digha P.S. Case No. 163 of 2023 (Special Case No. 2348 of 2023) registered for the offences punishable under Sections 30(a) and 37 of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. Allegedly in course of patrolling duty, the police on an information with regard to involvement of the petitioners in



paddling of illicit liquor, conducted raid and in course of search of the house of the petitioners, the father of the petitioners has been found to be in intoxicated position. It is further alleged that on the disclosure made by co-accused Yogendra Singh, who happens to be the father of the petitioners, 30.840 litres of Indian Made Foreign Liquor was recovered.

4. Learned counsel appearing on behalf of the petitioners submits that even as per the F.I.R., the alleged recovery of Indian Made Foreign Liquor was made from a bush, situated near the house of one Pawan Kumar, and no incriminating material or any illicit liquor has been recovered from the house of the petitioners. He further submits that only because of the fact that the father of the petitioners was found in intoxicated condition, the name of all the male persons of the family of the petitioners have been implicated in this case without their being any material. He next submits that the petitioners are students and before institution of this case, the petitioners had fair antecedent, however after the lodging of the present F.I.R., one another case has been instituted against petitioner no.1, which also shows the high handedness of the police.

5. On the other hand, learned APP for the State



opposes the bail application and submits that on the disclosure made by the father of the petitioners, the entire recovery of illicit liquor has been made. That apart, Section 76(2) of the Bihar Prohibition and Excise Act prohibits the anticipatory bail.

6. So far the confusion with regard to maintainability of anticipatory bail in a case under Bihar Prohibition and Excise Act is concerned, the same has already been dispelled by the Full Bench of this Court in the case of **Ram Vinay Yadav vs The State of Bihar, 2019(2) PLJR 1089**.

7. Regard being had to the submissions made on behalf of the parties and the fact that the alleged recovery has been made from a bush, near the house of one Pawan Kumar, and prior to the institution of the present case, the petitioners had fair antecedent, let the petitioners, named above, in the event of their arrest or surrender before the court below within four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise, Patna in connection with Digha P.S. Case No. 163 of 2023 (Special Case No. 2348 of 2023), subject to the condition as laid down under Section 438 (2) of the Cr.P.C. with the



further condition that one of the bailors shall be the own/close
relative of the petitioners.

(Harish Kumar, J)

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