

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64985 of 2023

Arising Out of PS. Case No.-259 Year-2022 Thana- LAHERIMUHALLA District- Nalanda

1. RAJU KUMAR Son of Arun Mahto @ Arun Kumar R/o vill - Kamal Bigha, P.S. - Katrisarai, Distt. - Nalanda
2. Beermani Kumar @ Rahul Kumar Son of Arun Mahto @ Arun Kumar R/o vill - Kamal Bigha, P.S. - Katrisarai, Distt. - Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 07-11-2023 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.

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

3. The petitioners are apprehending their arrest in connection with Laheri P.S. Case No. 259 of 2022 dated 26.05.2022 registered for the offence punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 9.660 litres of foreign liquor was recovered from the vehicle which was standing in the *parti* land near the house of Anil Kumar Shaw.



5. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. The petitioners are accused in four other criminal cases as stated in para 3 of the bail petition. No incriminating article has been recovered from the conscious 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.

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

7. Considering the aforesaid facts and circumstances of the case, let the above named petitioners, in the event of their 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) each with two sureties of the like amount each to the satisfaction of learned Court concerned, Nalanda at Bihar Shariff in connection with Laheri P.S. Case No. 259 of 2022, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

8. This application stands allowed.

(Chandra Prakash Singh, J)

atul/-

U		T	
---	--	---	--

