

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 64094 of 2023

Arising Out of PS. Case No.-187 Year-2023 Thana- YADOPUR District- Gopalganj

1. Sudama Yadav @Sudama Bhagat S/O Paras Yadav R/O Village- Bhagwanpur, PS. Nautan, Dist. West Champaran (Bettiah)
2. Jagat Kumar Yadav @ Jagat Kumar S/O Sudama Yadav @ Sudama Bhagat R/O Village- Sipaya, Ps. Bishambharpur, Dist. Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Lokesh Kumar Singh, Adv.

For the Opposite Party/s : Mr. M.K. Nirala, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 17-10-2023 Heard Mr. Lokesh Kumar Singh, learned counsel appearing on behalf of the petitioners and Mr. M. K. Nirala, learned Additional Public Prosecutor for the State.

2. The petitioners apprehend their arrest in connection with Jodopur (Yadopur) P.S. Case No. 187 of 2023 registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. On a secret information regarding the involvement of the petitioners along with others in paddling of the illicit liquor, the police conducted a raid and when they reached at the place of occurrence, they saw that 7-8 persons were engaged in unloading illicit wine from a boat. However, noting the police



party, all of them succeeded in fleeing away. On search, total 1108.8 litres Indian made foreign liquor was recovered.

4. Learned counsel appearing on behalf of the petitioners submits that save and except the secret information, there is no material suggesting the complicity of the petitioners, moreover, the petitioners are men of fair antecedent. He next submits that the alleged recovery has been made from a boat on the bank of river Gandak and the petitioner has neither any concern with the boat nor with the alleged recovered illicit wine. He further drew the attention of this Court to the infirmities made in the search and seizure and lastly submits that the petitioners undertake that they will fully cooperate in the investigation or in the proceeding of the court.

5. On the other hand, learned counsel for the State opposes the bail application and submits that huge quantity of illicit liquor has been recovered wherein the name of the petitioner is said to be one of the paddler. He further submits that the anticipatory bail is not maintainable in view of Section 76(2) of the Bihar Prohibition and Excise Act.

6. So far as the issue regarding maintainability of anticipatory bail under the Bihar Prohibition and Excise Act is concerned, the conundrum has already been dispelled by the



Full Bench of this Court in the case of **Ram Vinay Yadav vs. The State of Bihar** reported in **2019(2) PLJR 1089**.

7. Regard being had to the submissions made on behalf of the parties and considering the fact that the alleged recovery has been made from an open place, coupled with the fair antecedent of the petitioners, let the petitioners abovenamed be released on bail, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-II-cum- Special Judge Excise Court No. 1, Gapalganj in connection with Jodopur (Yadopur) P.S. Case No. 187 of 2023, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioners.

(Harish Kumar, J)

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