

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65749 of 2022

Arising Out of PS. Case No.-379 Year-2022 Thana- BELAGANJ District- Gaya

1. Guddu Yadav Son Of Late Shyamdeo Yadav Resident Of Village - Dalibigha, P.S.- Belaganj, District - Gaya
2. Birendra Yadav Son Of Chamru Yadav Resident Of Village - Dalibigha, P.S.- Belaganj, District - Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Akbar Ali, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 09-02-2023 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 a case registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, total 15 litres of country made liquor was recovered near Dalli Bigha. On seeing the police the petitioners fled away.

Learned counsel for the petitioners has submitted that



the petitioners have falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioners. Recovery was made from the open place. The petitioner no. 1 has one more and the petitioner no. 2 has four criminal antecedents of similar nature as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioners. 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 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 petitioners 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 material available on record, 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) with two sureties of the like amount each to the satisfaction of the learned court concerned, Gaya in connection with Belaganj P.S. Case No. 379 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

1. The court below shall verify the criminal antecedent of the petitioners and at any stage, if it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The application stands allowed.

(Chandra Prakash Singh, J)

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