

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71958 of 2022

Arising Out of PS. Case No.-547 Year-2022 Thana- DAUDNAGAR District- Aurangabad

1. Sarvdeep Bagariya Son Of Uday Chand Chaudhari R/O Village- Sohsarai, P.S.- Sohsarai, District- Nalanda
2. Uday Chand Chaudhari Son Of Late Rameshwar Chaudhary R/O Village- Sohsarai, P.S.- Sohsarai, District- Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Priya Ranjan

For the Opposite Party/s : Mr.Yogendra Kumar Singh

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 13-01-2023 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 Special Public Prosecutor for the State through video-conferencing.

The petitioners are apprehending their arrest in a case registered for the offences punishable u/s 30A, 32, 36 and 41 of the Bihar Prohibition and Excise Act.

As per prosecution case, 800 litres spirit was recovered from a *godam* of the co-accused.

Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. The



petitioners have no criminal antecedent as stated at para 3 of the bail petition. Nothing has been recovered from the possession of the petitioners. The name of the petitioners has transpired on the basis of discloser made by the co-accused person namely Md. Admad. Learned counsel has submitted that no case is made out against the petitioner. 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.

Learned S.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioner 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 nature of allegation against the petitioners, let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on 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, Aurangabad



in connection with Daudnagar P.S. Case No. 547 of 2022,
subject to conditions as laid down under Section 438 (2) of the
Code of Criminal Procedure.

This application stands allowed.

(Chandra Prakash Singh, J)

atul/-

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

