

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71414 of 2022

Arising Out of PS. Case No.-597 Year-2021 Thana- RAJAOLI District- Nawada

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1. UMESH RAJVANSHI @ LADDU, S/O MOSAFIR RAJVANSHI, Resident of village- Jobkala, P.S.- Rajauli, District- Nawada.
 2. KULDIP RAJVANSHI, S/O BALCHAND RAJVANSHI, Resident of village- Jobkala, P.S.- Rajauli, District- Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Kumar Verma, Advocate.

For the Opposite Party/s : Mr. Aditya Narayan Singh.1, SPP.

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 connection with Rajauli P. S. Case No. 597 of 2021 registered for the offences punishable under Section 30(a) (c) of the Bihar Prohibition and Excise Act.

As per the prosecution case, on 18.11.2021 the police, on a secret information, reached Jobkala Forest. On seeing the



police, all the accused persons including the petitioners fled away from the place of occurrence. It is further alleged that the on search, total 10 litres of country-made liquor was recovered from the bush situated in Jobkala forest.

Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. It has further been submitted that in fact, no incriminating material has been recovered from the possession of the petitioners. It is also submitted that the alleged recovery has been made from an open place, which is accessible to anyone. Learned counsel has further submitted that the name of the petitioners has surfaced on the disclosure made by the local Chowkidar, who has inimical term with the petitioners. The petitioners are accused in four other criminal cases as stated in para 3 of the bail petition. 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 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, 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-bonds of Rs. 20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of the learned court concerned, Nawada in connection with Rajauli P. S. Case No. 597 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

The application stands allowed.

(Chandra Prakash Singh, J)

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