

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74197 of 2023

Arising Out of PS. Case No.-240 Year-2022 Thana- RASULPUR District- Saran

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1. Rambabu Sha @ Rambabu Sah Son Of Gudari Shah @ Gupari Shah R/O Village- Madhopur, P.S.- Rasulpur, Dist.- Saran At Chapra
 2. Radhya Shayam @ Radhe Shyam Sah Son Of Gudari Shah @ Gupari Shah R/O Village- Madhopur, P.S.- Rasulpur, Dist.- Saran At Chapra

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajit Kumar Singh, Advocate

For the Opposite Party/s : Mrs. Sharda Kumari, A.P.P

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 30-11-2023 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 Rasulpur P.S. Case No. 240 of 2022 dated 19.08.2022 registered for the offence punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 100 litres of country-made liquor was recovered from an e-rickshaw.

5. Learned counsel for the petitioners has submitted



that the petitioners have falsely been implicated in this case. The petitioners are accused in one more criminal case 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. The petitioners are neither owner nor driver of the said e-rickshaw. 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, Saran at Chapra in connection with Rasulpur P.S. Case No. 240 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)

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