

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76543 of 2023**

Arising Out of PS. Case No.-362 Year-2022 Thana- MOHIUDDIN NAGAR District-
Samastipur

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1. Bauaa Paswan @ Koka Kamindra Paswan @ Kamendra Kumar @ Koka Kamindra Paswan S/O Dukhan Paswan Village- Bind Bochaha, Bahapar, Ward No. 13, Ps. Mohiuddin Nagar, Dist. Samastipur
 2. Birchandra Paswan @ Birchandr Paswan S/O Dukhan Paswan Village- Bind Bochaha, Bahapar, Ward No. 13, Ps. Mohiuddin Nagar, Dist. Samastipur
 3. Dukhan Paswan S/O Late Kalo Paswan Village- Bind Bochaha, Bahapar, Ward No. 13, Ps. Mohiuddin Nagar, Dist. Samastipur

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Lakshmindra Kumar Yadav, Advocate
For the Opposite Party/s : Mr. Ramesh Chandra, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 14-12-2023 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 Mohiuddin Nagar P.S Case No. 362 of
2022 dated 18.12.2022 for the offences punishable u/s 30(a)
of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 10 litres of



illicit liquor was recovered from the hut and khajurbanni of Bablu Paswan

5. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. The petitioners have one criminal antecedent as stated at para 3 of the bail petition. No incriminating article has been recovered from the conscious possession of the petitioners, hence no case is made out. 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 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 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, Samastipur in connection with Mohiuddin Nagar P.S Case No. 362 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Nilmani/-

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