

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75793 of 2023

Arising Out of PS. Case No.-332 Year-2023 Thana- PHULWARIYA District- Gopalganj

1. Sunil Yadav Son Of Suresh Yadav Resident Of Village- Mardwani, Ps-Phulwariya, Dist- Gopalganj
2. Dhiraj Kumar Son Of Suresh Ram Resident Of Village- Mardwani, Ps-Phulwariya, Dist- Gopalganj

... .. Petitioner/s

Versus

The State Of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Deepankar Raj, Advocate

For the Opposite Party/s : Mr. Shaheen Begum, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 12-12-2023 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 a case in connection with Phulwariya P.S. Case No. 332 of 2023 dated 14.09.2023 for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 87 litres of country made liquor was recovered from a gunny bag which is alleged to have thrown by the petitioners.

5. 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. The petitioners have no concern with the alleged recovery. The apprehended accused persons disclosed the name of the petitioners. The petitioner no. 1 has three other criminal cases and the petitioner no. 2 is accused in one more criminal case 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 the 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.

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 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) each with two sureties of the like amount each to the satisfaction of the



learned court concerned, Gopalganj in connection with Phulwariya
P.S. Case No. 332 of 2023, subject to conditions as laid down under
section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

(Chandra Prakash Singh, J)

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