

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71964 of 2022

Arising Out of PS. Case No.-16 Year-2021 Thana- MAHESHKHUNT District- Khagaria

1. RAUSHAN KUMAR S/o Pramod Singh R/o Village- Pabra, P.S.- Cheriya Bariyarpur, Distt- Begusarai.
2. Binod Kumar Singh @ Babalu Singh S/o Ramchandra Singh R/o Village- Bairpur, P.S.- Birpur, Distt- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pushpendra Kumar Singh

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 20-01-2023 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.

The Petitioners are apprehending their arrest in a case registered for the offences punishable u/s 30(a), 36 and 41(i) of Bihar Prohibition and Excise Act.

As per the prosecution case, total 2250 litres of foreign liquor was recovered from the truck and the truck driver Amarjeet Singh and Sub-driver Raghubir Singh were arrested in this case.



Learned counsel for the petitioner has submitted that the petitioners have falsely been implicated in this case. The petitioners are not owner of the said vehicle. Nothing has been recovered from the possession of the petitioners. The name of the petitioners has sprung up in the confessional statement of the co-accused. The petitioner no. 1 and the petitioner no. 2 are also accused in one more criminal case which is related to Excise Act 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 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 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.

Considering the aforesaid facts and circumstances of



the case, as well as the nature of allegation, 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 learned Court concerned, Khagaria in connection with Maheshkhunt P.S. Case No. 16 of 2021, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

This application stands allowed.

(Chandra Prakash Singh, J)

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