

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70874 of 2022

Arising Out of PS. Case No.-103 Year-2022 Thana- CHANAN District- Lakhisarai

1. SOBHI KORA Son of Bhuneshwar Kora Resident of Village - Gowardaha Korasi, P.S.- Chanan, District - Lakhisarai.
2. Dina Kora @ Dina Koda @ Dinesh Kora Son of Mano Kora Resident of Village - Gowardaha Korasi, P.S.- Chanan, District - Lakhisarai.
3. Kaleshwar Kora Son of Late Bhatu Kora Resident of Village - Gowardaha Korasi, P.S.- Chanan, District - Lakhisarai.
4. Chuha Kora @ Suresh Kora Son of Late Hazari Kora Resident of Village - Gowardaha Korasi, P.S.- Chanan, District - Lakhisarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar

For the Opposite Party/s : Mr.Renu Kumari APP

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.

The petitioners are apprehending their arrest in a case registered for the offences punishable u/s 30 (a), (b) and (c) of Bihar Prohibition and Excise Act.

As per prosecution case, on seeing the police, five-six miscreants fled away and 30 litres of country-made Mahua



liquor was recovered from the bush, while 1,100 litres of rotten java mahua and 2 furnaces were also found destroyed at the place of occurrence. The informant came to know from the local *chaukidar* and villagers that the petitioners used to prepare country-made Mahua liquor and also sell it in association with the co-accused persons.

Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case on mere suspicion. Nothing has been recovered from the conscious possession of the petitioners and none of the petitioners were apprehended at the place of occurrence. Recovery was made from the bush of the jungle. The petitioners no. 1,3 and 4 have no criminal antecedent but the petitioner no. 2 is accused in one more criminal case as stated at 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 judgement 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 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 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) each with two sureties of the like amount each to the satisfaction of learned Court concerned, Lakhisarai in connection with Chanan P.S. Case No 103 of 2022, 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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