

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73103 of 2022

Arising Out of PS. Case No.-539 Year-2022 Thana- LAHERIYASARAI District- Darbhanga

1. Rajesh Kumar Das, Son of Rajendra Das, R/v- Donar Ganga Sagar, P.S.- Benta O.P., District- Darbhanga
2. Gopal Kumar @ Gopal, Son of Prem Chandra Mandal, R/v- Allalpatti, P.S.- Benta O.P., District- Darbhanga
3. Retesh Kumar Mandal @ Retesh @ Retesh Kumar, Son of Bhola Mandal, R/o Village/Mohalla- Gudri Bazar , P.S.- Benta O.P., District- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs.Aprajita, Advocate
For the Opposite Party/s : Mrs.Meena Singh, APP

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 Additional Public Prosecutor for the State through virtual court proceeding.

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

As per the prosecution case, 20.25 litres English wine was recovered from the canteen and the co-accused Vicky



Kumar and Suresh Mandal were apprehended by the police who were standing in the kitchen of the said canteen. The apprehended accused persons disclosed the name of the petitioners.

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 name of the petitioners has sprung up on the basis of confession of the co-accused. He has further submitted that the petitioners have no concern with the alleged liquor or the apprehended persons. The petitioner no. 1 and 2 are accused in two other cases whereas the petitioner no. 3 is accused in one more 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 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 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 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, Darbhanga in connection with Laheriya Sarai P.S. Case No. 539 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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