

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72874 of 2022

Arising Out of PS. Case No.-359 Year-2022 Thana- GORAUL District- Vaishali

1. Bhuklu @ Indrajeet Paswan Son Of Machhu Paswan Resident Of Gaddi Chowk, P.S- Goraul (Kathara O.P) Dist- Vaishali
2. Shankar Paswan Son Of Machhu Paswan Resident Of Gaddi Chowk, P.S- Goraul (Kathara O.P) Dist- Vaishali
3. Parvati Devi Wife Of Bhuklu @ Indrajeet Paswan Resident Of Gaddi Chowk, P.S- Goraul (Kathara O.P) Dist- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Prem Kumar Paswan, Advocate
For the Opposite Party/s : Mr.Sanjay Kumar Pandey, A.P.P

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 25-02-2023 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.

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

As per prosecution case, total 20 liters of country-made liquor kept in plastic gallon and equipments for preparing liquor were recovered from the house of Bhukalu @ Indrajeet



Paswan.

Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. The petitioners have no criminal antecedent as stated in para 3 of the bail petition. Nothing has recovered from the conscious possession of the petitioners. The petitioner No. 3 is the wife of the petitioner No. 1. Learned counsel further submitted that the seizure list indicates that said recovery was made from the *Gaddi Chawk Bakri Doah* but in the F.I.R recovery was shown from the house of petitioner No. 1. 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 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, let the above named petitioner, in the event of his 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, Vaishali at Hajipur in connection with Goraul Kathara P.S. Case No. 359 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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