

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71763 of 2022

Arising Out of PS. Case No.-763 Year-2022 Thana- TURKAULIYA District- East
Champaran

-
1. VIKASH SAHANI @ VIKASH KUMAR, Son of Prabhu Sahani Resident of Village - Chailaha Kothi Chailaha Bin Toli, P.S.- Banjariya, District - East Champaran
 2. Ramesh Sahani @ Ramesh Kumar, Son of Banti Sahani @ Banti Shani Resident of Village - Chailaha Kothi Chailaha Bin Toli, P.S.- Banjariya, District - East Champaran
 3. Ajay Mukhiya, Son of Mishri Mukhiya Resident of Village - Chailaha Kothi Chailaha Bin Toli, P.S.- Banjariya, District - East Champaran
 4. Rampukar Mukhiya @ Pukar Mukhiya, Son of Prabhu Mukhiya Resident of Village - Chailaha Kothi Chailaha Bin Toli, P.S.- Banjariya, District - East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abbhishek Kumar, Advocate
For the Opposite Party/s : Mr.Gauri Shankar Gupta, SPP

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 through virtual court proceeding.

The petitioners are apprehending their arrest in a case registered for the offences punishable u/s 30(A), 32, 34, 36 and



41(i) of the Bihar Prohibition and Excise Act.

As per the prosecution case, some miscreants were manufacturing country made liquor at the bank of Dhanauti river. A raid was conducted by the police and 40 litres of country made liquor was recovered while the miscreants fled away.

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 at para 3 of the bail petition. Nothing has been recovered from the possession of the petitioners. He has further submitted that the name of the petitioners has transpired on the basis of disclosure of the local *chowkidar* and villagers. Learned counsel has submitted that no case is made out against the petitioner. 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 S.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, Motihari, East Champaran in connection with Turkaulia P.S. Case No. 763 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)

Gautam/-

U		T	
---	--	---	--

