

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72647 of 2022**

Arising Out of PS. Case No.-185 Year-2021 Thana- SATHI District- West Champaran

1. SANTOSH YADAV Son of Sri Shambhu Yadav R/v- Basantpur, P.S.- Sathi,
District- West Champaran
2. ASHOK YADAV Son of Sri Shambhu Yadav R/v- Basantpur, P.S.- Sathi,
District- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate.

For the Opposite Party/s : Mr. Gauri Shankar Gupta, 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 video conferencing.

The petitioners are apprehending their arrest in connection with Sathi P. S. Case No. 185 of 2021 registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, the police got a secret information that all the named accused persons including the



petitioners were manufacturing and packaging illicit liquor on the bank of Sikrahna river. They reached the place of occurrence. On seeing the police, 4-5 persons fled away from the place of occurrence. On search, total 40 litres of country made liquor was recovered from the surrounding of the said place. It is further alleged that the people who were assembled at the place of occurrence 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 have transpired on the disclosure made by the people, who were gathered at the place of occurrence. The petitioners have no concerned with the alleged recovery. The petitioners have got absolutely clean antecedent 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 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 APP 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, 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-bonds of Rs. 20,000/- (Rupees twenty thousand) each with two sureties of the like amount each to the satisfaction of the learned Court concerned, West Champaran at Bettiah in connection with Sathi P. S. Case No. 185 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

The application stands allowed.

(Chandra Prakash Singh, J)

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