

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75328 of 2023

Arising Out of PS. Case No.-477 Year-2022 Thana- SIKARPUR District- West Champaran

1. NANDU MANJHI SON OF KAILASH MANJHI Village- Bhantadih Ps- Shikarpur Dist- W.Champaran
2. Munni Devi wife of Rajesh Manjhi Village- Bhantadih Ps- Shikarpur Dist- W.Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Aditya Nath Jha, Adv.

For the Opposite Party/s : Mr.Sucheta Yadav, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 11-12-2023 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in a case in connection with Shikarpur P.S. Case No. 447 of 2022 dated 11.06.2022 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 4 litres of illicit liquor was recovered near the house of the petitioner.

5. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. The name of the petitioners was disclosed by local *chowkidar*. The petitioners have no criminal antecedent as stated at para 3 of the



bail petition. Nothing has been recovered from the conscious possession of the petitioners rather the recovery has been made from the road as per seizure list, hence no case is made out. 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.

6. 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.

6. 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, Bettiah,
West Champaran in connection with Shikarpur P.S. Case No.
477 of 2022, subject to conditions as laid down under Section
438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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