

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73685 of 2022

Arising Out of PS. Case No.-115 Year-2022 Thana- MEDNI CHAUKI District- Lakhisarai

1. Paro Mahto @PARIKSHAN Kumar S/O Late Shankar Mahto R/V- Deoghara Chandragela, P.S.- Medni Chowki, District- Lakhisarai
2. Raja Kumar S/O Late Shankar Mahto R/V- Deoghara Chandragela, P.S.- Medni Chowki, District- Lakhisarai
3. Monika Devi W/O Paro Mahto @ Parikshan Kumar R/V- Deoghara Chandragela, P.S.- Medni Chowki, District- Lakhisarai
4. Vimla Devi W/O Late Shankar Mahto R/V- Deoghara Chandragela, P.S.- Medni Chowki, District- Lakhisarai

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Binay Kumar, Advocate

For the Opposite Party/s : Mr.Amit Kumar Rakesh, A.P.P

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 a case registered for the offences punishable u/s 30(a) of the Indian Penal Code.

As per prosecution case, 100 litres of country-made



liquor was recovered from the thatched house situated behind the school.

Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case on account of village politics. The petitioners have no criminal antecedent as stated at para 3 of the bail petition. The thatched house does not belong to the petitioners. Nothing has been recovered from the possession of 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 petitioner, let the above named petitioners, in the event of their



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) each with two sureties of the like amount each to the satisfaction of learned Court concerned, Lakhisarai in connection with Medni Chowki P.S. Case No. 115 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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