

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74012 of 2022

Arising Out of PS. Case No.-224 Year-2021 Thana- GAIGHAT District- Muzaffarpur

1. Sanjay Kumar Yadav Son Of Bisho Yadav R/O Village- Fatulahan, P.O.- Jariso, P.S.- Bahera, District- Darbhanga
2. Ashok Yadav Son Of Bisho Yadav R/O Village- Fatulahan, P.O.- Jariso, P.S.- Bahera, District- Darbhanga

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Yugal Kishore, Advocate

For the Opposite Party/s : Mr. Pushpa Sinha.1, 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 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 272, 273 read with section 34 of the Indian Penal Code and 30(a), 36, 41 (1) of the Bihar Prohibition and Excise Act.

As per the prosecution case, total 2966 litres of English wine was recovered from a Tata Truck No. HR-



38Z/2215 and 86.400 litres of English wine was recovered from a Swift Dezire car No. BR7J/7022. The apprehended person 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 possession of the petitioners. The petitioners are neither the owner nor the driver of the said vehicles. The petitioners are running a CSP centre of Bank after getting license. The petitioners have no criminal 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 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 material available on record, 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) with two sureties of the like amount each to the satisfaction of the learned court concerned, Muzaffarpur in connection with Gaighat P.S. Case No. 224 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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