

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.84037 of 2023**

Arising Out of PS. Case No.-671 Year-2023 Thana- MAHUA District- Vaishali

1. Bablu Singh @ Dharamvir Singh S/o- Raghunath Singh R/o Vill- madhopur, P.S- Mahua, District- Vaishali.
2. Vikash Kumar S/o- Rambabu Ray R/o Vill- madhopur, P.S- Mahua, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Anish Kumar, Adv.

For the Opposite Party/s : Mr.Parmanand Prasad, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH**

ORAL ORDER

2      21-12-2023                      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 Mahua P.S. Case No. 671 of 2023 dated 16.10.2023 registered for the offences punishable u/ss 272, 273, 420, 467, 468 of the Indian Penal Code and u/ss 30(a), 32(ii)(iii), 41(i)(ii) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, 2546.64 litres of illicit liquor was recovered from a truck parked near the Pacs Godown and also recovered from a pick-up vehicle.

5. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. The



petitioners have two criminal antecedent as stated in para 3 of the bail petition. Nothing has been recovered from the conscious possession of the petitioners hence, no case is made out against the petitioners. It is further submitted that the petitioners is neither the owner nor the driver of the said vehicles and the petitioners have no concern with the alleged recovery. 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, Vaishali at Hajipur in connection with Mahua P.S. Case No. 671 of 2023, 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)**

Gautam/-

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