

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5896 of 2024

Arising Out of PS. Case No.-329 Year-2017 Thana- DARIYAPUR District- Saran

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1. RAMESH RAI SON OF RAMDEV RAI R/O-TAKHANMANGAR PAL,
P.S.-DARIYAPUR, DISTT.-SARAN
 2. ANIL RAI SON OF UPENDRA RAY R/O-TAKHANMANGAR PAL, P.S.-
DARIYAPUR, DISTT.-SARAN

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nalin Kumar

For the Opposite Party/s : Mr.Rana Randhir Singh

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

ORAL ORDER

2 16-02-2024 Learned counsel for the petitioners is directed to remove the defect(s), as pointed out by the office, if any, within a period of three weeks from today.

2. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

3. The petitioner is apprehending their arrest in connection with Dariyapur P.S. Case No. 329 of 2017, dated 16.12.2017, for the offences punishable under Sections 272, 273 of the Indian Penal Code and under sections 30, 30(a) of the Bihar Prohibition and Excise Act, 2016.

4. As per the prosecution case, total 30 litres of country made liquor has been recovered from the bank of the



river.

5. Learned counsel for the petitioners has submitted that the petitioners are innocent and has falsely been implicated in this case. The petitioner no. 1 has two criminal antecedent of similar nature in which he is on bail whereas the petitioner no.2 has three cases of similar nature in which he is on bail. The name of the petitioners were disclosed on the basis of the statement of the local Chowkidar. No incriminating material has been recovered from the conscious possession of the petitioners, hence 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 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 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.

7. 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 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 the learned court concerned, Saran at Chapra in connection with Dariyapur P.S. Case No. 329 of 2017, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

(Chandra Prakash Singh, J)

Ranjeet/-

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