

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.8005 of 2024**

Arising Out of PS. Case No.-110 Year-2023 Thana- RUDRAPUR District- Madhubani

1. Sandeep Kumar S/O Santosh Mahto Village- Navlakha, Ps.- Rudrapur, Dist. Madhubani.
2. Rahul Kumar S/O Pramod Mahto Village- Navlakha, Ps.- Rudrapur, Dist. Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Baleshwar Kamat, Adv.  
For the Opposite Party/s : Mr. Abhay Kumar Roy, APP.

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

ORAL ORDER

2      21-02-2024                      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 Rudrapur P.S. Case No. 110 of 2023 dated 13.09.2023 for the offence punishable u/s 272 and 273 of the IPC and u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 30 litres of illicit country made liquor was recovered near the bank of river.

4. Learned counsel for the petitioner has submitted that the petitioners are innocent and have falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioners. The



recovery was made from an open place that is accessible to anyone. The petitioners have no concern with the alleged recovery. The name of the petitioners has transpired in the confessional statement of the co-accused Prince Kumar. 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.

5. 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 material available on record, let the above named petitioners, in the event of his 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, Madhubani in connection with Rudrapur P.S. Case No. 676 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

**(Chandra Prakash Singh, J)**

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