

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4636 of 2024

Arising Out of PS. Case No.-488 Year-2021 Thana- GAURICHAK District- Patna

1. Surendra Manjhi S/o Late Vifan Manjhi Village- Dagrpar Musahari Ps- Gaurichak Dist- Patna
2. Ravi Manjhi son of Late Sunil Manjhi Village- Dagrpar Musahari Ps- Gaurichak Dist- Patna
3. Mukesh Manjhi son of Raja Manjhi Village- Dagrpar Musahari Ps- Gaurichak Dist- Patna
4. Mithun Manjhi son of Veer Manjhi Village- Dagrpar Musahari Ps- Gaurichak Dist- Patna
5. Pankauwa Manjhi @ Nitish Manjhi son of Brahmdeo Manjhi Village- Dagrpar Musahari Ps- Gaurichak Dist- Patna
6. Vishambhar Manjhi son of Halkhori Manjhi Village- Dagrpar Musahari Ps- Gaurichak Dist- Patna
7. Jainath Manjhi son of Rameshwar Manjhi Village- Dagrpar Musahari Ps- Gaurichak Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Sinha
For the Opposite Party/s : Mr.Ahmad Ali

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 13-02-2024 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 are apprehending their arrest in connection with Gaurichak P.S. Case No. 488 of 2021, dated



12.11.2021 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

4. As per prosecution case, total 100 litres of country made liquor has been recovered from east of the village.

5. Learned counsel for the petitioners have submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioners have no criminal antecedent as stated in para 3 of the bail petition. The name of the petitioners were disclosed by apprehended co-accused namely Pradeep Manjhi. 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, Patna City, in connection with Gaurichak P.S. Case No. 488 of 2021, 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)

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