

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6036 of 2024

Arising Out of PS. Case No.-118 Year-2023 Thana- PUSA District- Samastipur

1. Santosh Das @ Santosh Kumar @ Santosh Kumar Das Son of Upendra Das
R/o vill - Harpur Bhuskaul, P.S. - Pusa, Distt.- Samastipur
2. Subodh Das @ Subodh Kumar @ Subodh Kumar Das Son of Upendra Das
R/o vill - Harpur Bhuskaul, P.S. - Pusa, Distt.- Samastipur
3. Upendra Das Son of Yogendra Das R/o vill - Harpur Bhuskaul, P.S. - Pusa,
Distt.- Samastipur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anuj Kumar

For the Opposite Party/s : Mr.Parmanand Kumar

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

ORAL ORDER

3 28-03-2024 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Pusa P.S. Case No. 118 of 2023, dated 17.10.2023 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

3. As per prosecution case, total 430.560 litres of illicit foreign liquor was recovered from the two pick up and one motorcycle parked at godown of Santosh Das @ Santosh



Kumar @ Santosh Kumar Das.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. The petitioners have no criminal antecedent as stated in para 3 of the bail petition. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. 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.

5. 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 and further submitted that the recovery has been made from the godown of Santosh Das @ Santosh Kumar @ Santosh Kumar Das.

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 no. 2 & 3, 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, Samastipur in connection with Pusa P.S. Case No. 118 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed with regard to the petitioners no. 2 & 3.

8. So far as the petitioner no. 1 is concerned, the recovery was made from the godown of the petitioner no. 1, I am of the view that no case for grant of anticipatory bail is made out and the same is disposed of with direction to the petitioner no. 1 namely Santosh Das @ Santosh Kumar @ Santosh Kumar Das to surrender before the concerned court below within six weeks from the date of this order and the learned court below shall consider his prayer for regular bail in accordance with law without being prejudiced by this order.

9. Accordingly, the application regarding petitioner no. 1 namely Santosh Das @ Santosh Kumar @ Santosh Kumar



Das stands disposed of.

(Chandra Prakash Singh, J)

Ranjeet/-

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