

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6516 of 2024

Arising Out of PS. Case No.-301 Year-2023 Thana- THAWE District- Gopalganj

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1. Nageshwar Mahto S/O Bharat Mahto R/O Village- Khanpur Ajmat, P.S- Thawe, Distt.- Gopalganj.
 2. Santosh Kumar Mahto @ Santosh Mahto S/O Singhasan Mahto R/O Village- Khanpur Ajmat, P.S- Thawe, Distt.- Gopalganj.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Babu Nandan Prasad, Adv.

For the Opposite Party/s : Ms. Meena Singh, APP.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 17-02-2024 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 Thawe P.S. Case No. 301 of 2023 dated 18.10.2023 for the offence punishable u/s 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. As per the prosecution case, total 27 litres of illicit country made liquor was recovered from the school.

4. Learned counsel for the petitioners 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 disclosed by the local Chaukidar. 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 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) with two sureties of the like amount
each to the satisfaction of the learned court concerned,
Gopalganj in connection with Thawe P.S. Case No. 301 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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