

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6717 of 2024

Arising Out of PS. Case No.-546 Year-2023 Thana- BAHADURPUR District- Darbhanga

1. Mamta Devi W/O Jai Prakash Mahaseth @ Jai Prakash Khan R/O Village/Mohalla- Dilawarpur, P.S- Bahadurpur, Distt.- Darbhanga.
2. Jai Prakash Mahaseth @ Jai Prakash Khan S/O Ram Narayan Mahaseth R/O Village/Mohalla- Dilawarpur, P.S- Bahadurpur, Distt.- Darbhanga.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kedar Jha, Adv.

For the Opposite Party/s : Ms. Sharda Kumari, 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 Bahadurpur P.S. Case No. 546 of 2023 dated 17.11.2023 for the offence punishable u/s 30(a) of the Bihar Prohibition and Excise Act, 2016.

3. As per the prosecution case, total 5.58 litres of illicit foreign liquor was recovered from the house of the petitioner.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioners. As per the FIR, the recovery has been made from the house of the petitioner but as per the seizure list, the recovery has



been made from the village Dilawarpur ward no.5 which creates doubt upon the prosecution case. 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 antecedents 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 the 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) each with two sureties of the like amount each to the satisfaction of the learned court concerned, Darbhanga in connection with Bahadurpur



P.S. Case No. 546 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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