

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6898 of 2024

Arising Out of PS. Case No.-580 Year-2023 Thana- BARUN District- Aurangabad

1. Raushan Chaudhary @ Bhura @ Raushan Kumar S/O Sunil Chaudhary Village- Mohanganj, Barun, Ps. Barun, Dist. Aurangabad (BIHAR).
2. Abhishek Kumar S/O Kanhai Prasad Ravani @ Kanhai Singh Village- Mohanganj, Barun, Ps. Barun, Dist. Aurangabad (BIHAR).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Birendra Singh, Advocate

For the Opposite Party/s : Mr.Md. Nazir Ansari, 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 Barun P.S. Case No. 580/2023 dated 03.12.2023 registered for the offence punishable u/s 30(a) and 30(c) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, 15000 litres of illicit mahuwa pass and 85 litres of mahuwa liquor has been recovered from the bank of the Sone river.

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 petitioners hence, no case is made out against the petitioners. The recovery is from an open place which is accessible to anyone. 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 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 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 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 learned court concerned, Aurangabad in connection with Barun P.S. Case No. 580/2023 subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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