

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10710 of 2024

Arising Out of PS. Case No.-373 Year-2023 Thana- Excise P.S. District- Khagaria

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1. Himanshu Kumar son of Harendra Yadav @ Harendra Kumar Village-Baluhai W.No-30, Ps- Khagaria Town Dist- Khagaria
 2. Harendra Yadav @ Harendra Kumar son of Mahendra Yadav Village-Baluhai W.No-30, Ps- Khagaria Town Dist- Khagaria

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Santosh Kumar Singh, Adv.

For the Opposite Party/s : Mrs.Shaheen Begum, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 27-02-2024 Heard learned counsel for the petitioners and
learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Excise Case No. 945c3/2023 P.S. Case No. 373 of 2023 dated 24.09.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 1.98 litres of illicit foreign liquor was recovered from the *bhuskhar* near the *Ambedkar* statue.

4. Learned counsel for the petitioner 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. The name of the petitioners was disclosed by local people. It is further submitted that the petitioners have no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioners, hence no case is made out. 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 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, Khagaria in connection with Excise Case No. 945c3/2023 arising out of Excise P.S. Case No. 373 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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