

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10949 of 2024

Arising Out of PS. Case No.-390 Year-2023 Thana- CHHAURADANO District- East
Champaran

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1. Vijay Ram @ Vijay Kumar S/O MOHAN KUMAR VILLAGE-
JAINAGAR, PS. CHHAURADANO, DIST. EAST CHAMPARAN,
MOTIHARI.
 2. VRAJESH RAI @ VIJESH RAI S/O INARMAN RAI VILLAGE- BELA,
PS. CHHAURADANO, DIST. EAST CHAMPARAN, MOTIHARI.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar, Adv.

For the Opposite Party/s : Mr.Shyam Bihari Singh, 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 a case
in connection with Chhauradano P.S. Case No. 390 of 2023 dated
19.11.2023 registered for the offences punishable u/s 30(a) of the
Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 21 litres of illicit
country made liquor was recovered from the motorcycle.

4. Learned counsel for the petitioners has submitted
that the petitioners are innocent and have falsely been
implicated in this case. The petitioners have one criminal



antecedent as stated in para 3 of the bail petition. The name of the petitioners has sprung up in the confessional statement of the apprehended co-accused, Chandrabhushan Kumar. The petitioners are not the owner of the said vehicle and the same was not being driven by the petitioners at the time of the alleged recovery. 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 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, Motihari, East Champaran in connection with Chhauradano P.S. Case No. 390 of 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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