

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9450 of 2024

Arising Out of PS. Case No.-2339 Year-2023 Thana- Excise P.S. District- Muzaffarpur

1. Mukesh Sah @ Masan S/o- Bhulan Sah R/o- Pakari Four Lane Mushhar Tola Ps- Sadar Dist- Muzaffarpur
2. Sintu Kumar @ Sintu Rai son of Raj Kishore Rai Village- Barmatpur Ps- Sadar Dist- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Upendra Kumar Chaubey

For the Opposite Party/s : Mr.Md. Iftekhar Mahmood

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 22-02-2024 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 P.S. Case No. 2339 of 2023, dated 11.12.2023 for the offences punishable under Sections 30(a), 32(3) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 8301.96 litres of illicit liquor was recovered from the truck & the two pick-up van.

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



similar nature as stated in para 3 of the bail petition in which they are on bail. The petitioners are neither driver nor owner of the said seized vehicles. No incriminating material has been recovered from the conscious possession of the petitioners, hence 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 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 APP 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, Muzaffarpur in connection with Excise P.S. Case No. 2339 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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