

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11048 of 2024

Arising Out of PS. Case No.-550 Year-2023 Thana- RAJGIR District- Nalanda

-
1. Dharmendra Chaudhary Son of Rameshwar Chaudhary R/o vill - Gajipur,
P.s. - Rajgir, Distt. - Nalanda
 2. Babita Devi W/o Dharmendra Chaudhary R/o vill - Gajipur, P.s. - Rajgir,
Distt. - Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Satya Prakash, Adv.

For the Opposite Party/s : Mr. Md. Anzarul Haque Sahara, 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 Rajgira P.S. Case No. 550 of 2023 dated 26.10.2023 for the offence punishable u/s 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. As per the prosecution case, total 9 litres of illicit country made liquor was recovered behind the house of the petitioners.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. No incriminating material has been



recovered from the conscious possession of the petitioners. The recovery was made from an open place that is accessible to anyone. Local people disclosed the name of the petitioners. The petitioners have no concern with the alleged recovery. The petitioner no.1 has one criminal antecedent and the petitioner no.2 has no criminal antecedent 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 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 petitioner 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) with two sureties of the like amount each to the satisfaction of the learned court concerned, Nalanda at Bihar Sharif in connection with Rajgir P.S. Case No. 550 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)

annpurna/-

U		T	
---	--	---	--

