

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12487 of 2024

Arising Out of PS. Case No.-512 Year-2023 Thana- CHHATAUNI District- East Champaran

1. Shibu Sah SON OF Gopal Sah Resident of village- BANGALI COLONY GALI NO. 4, PS- CHHATAUNI, DIST- EAST CHAMPARAN
2. SANGEETA DEVI WIFE OF SURAJ SAH Resident of village- BANGALI COLONY GALI NO. 4, PS- CHHATAUNI, DIST- EAST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Umeshchandra Verma, Adv. Mrs. Rashmi Jha, Adv. Mr. Hemant Ray, Adv.
For the Opposite Party/s	:	Mr. Anuj Kumar Shrivastava, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 29-02-2024 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 Chhatauni P.S. Case No. 512 of 2023 dated 12.10.2023 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 25.110 litres of illicit foreign liquor was recovered from the house of the co-accused, Gita Devi.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been



implicated in this case. The petitioners one criminal antecedent as stated in para 3 of the bail petition. The petitioner has been made accused in this case only because they happens to be the brother and the daughter-in-law of the co-accused, Gita Devi. 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 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 Chhatauni P.S. Case No. 512 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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