

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15574 of 2024

Arising Out of PS. Case No.-245 Year-2023 Thana- PIPRAHI District- Sheohar

1. Chunnu Sahni Son Of Akalu Sahni Resident Of Village- Belawa Narakatiya, Ps- Piprahi, Distt- Sheohar
2. Subodh Sahni Son Of Ram Chandra Sahni Resident Of Village- Belawa Narakatiya, Ps- Piprahi, Distt- Sheohar
3. Suraj Sahni @ Shivraj Sahni Son Of Jimdari Sahni Resident Of Village- Belawa Narakatiya, Ps- Piprahi, Distt- Sheohar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Hans Lal Kumar
For the Opposite Party/s : Mr.Akshay Lal Pandit

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 12-03-2024 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 Piprahi P.S. Case No. 245/2023 dated 31.10.2023 registered for the offence punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 485.1 litres of illicit Nepali liquor was recovered from the bank of the Bagmati river.

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



implicated in this case. The petitioner No. 1 and 2 have no criminal antecedent whereas the petitioner No. 3 is accused in one more criminal case as stated in para 3 of the bail petition. Nothing has been recovered from the conscious possession of the petitioners hence, no case is made out against the petitioners. The recovery is from an open place which is accessible to anyone. 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, Sheohar in connection with Piprahi P.S. Case No. 245/2023 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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