

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11458 of 2024

Arising Out of PS. Case No.-920 Year-2019 Thana- FATUA District- Patna

1. Nitish Kumar Son Of Shiv Kumar Resident Of Village- Sikandarpur, Ps-
Fatuha, Distt- Patna
2. Vinay Ram Son Of Rameshwar Ram Resident Of Village- Sikandarpur, Ps-
Fatuha, Distt- Patna
3. Doman Safera @ Rambabu Safera @ Doman Sapera Son Of Sugarib Safera
@ Sugriv Sapera Resident Of Village- Sikandarpur, Ps- Fatuha, Distt- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sandeep Kumar, Adv.
For the Opposite Party/s : Mr. Sanjay Kumar, APP.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 28-02-2024 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 Fatuha P.S. Case No. 920 of 2019 dated
30.12.2019 for the offence punishable u/s 30(a) of the Bihar
Prohibition and Excise Act, 2016.

3. As per the prosecution case, total 50 litres of illicit
country made liquor was recovered behind the school.

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 petitioners have 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 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 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, Patna City in connection with Fatuha P.S. Case No. 920 of 2019, 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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