

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11476 of 2024

Arising Out of PS. Case No.-12 Year-2024 Thana- MURLIGANJ District- Madhepura

1. Diwakar Singh @ Chintu Singh S/o Ashok Singh R/o vill - Rajani, ward no. 9, P.s. - Murliganj, Distt - Madhepura (Bihar)
2. Prabhakar Singh @ Pintu Singh Son of Ashok Singh R/o vill - Rajani, ward no. 9, P.s. - Murliganj, Distt - Madhepura (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arvind Kumar, Adv.

For the Opposite Party/s : Mr. Shailendra 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 Muliganj P.S. Case No. 12 of 2024 dated 08.01.2024 for the offence punishable u/s 30(a) of the Bihar Prohibition and Excise Act, 2022.

3. As per the prosecution case, total 459 litres of illicit foreign liquor was recovered from a car near the temple.

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



petitioners are neither the owner nor the driver of the said vehicle. The said vehicle was not being driven by the petitioners at the time of the alleged occurrence. Police team identified the persons including the petitioners who fled away from the place of occurrence, thus the name of the petitioners has transpired in this case. The petitioners have no concern with the alleged recovery. The petitioner no.1 has three other criminal antecedents and the petitioner no.2 has eight other criminal antecedents 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, Madhepura in connection with Murliganj P.S. Case No. 12 of 2024, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further condition/s:-

(i) The petitioner no.2 Prabhakar Singh @ Pintu Singh is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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