

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15572 of 2024

Arising Out of PS. Case No.-914 Year-2023 Thana- DIGHA District- Patna

-
1. Gaurav @ Gaurav Kumar son of Sanjay Kumar Road NO-18, Rajiv Nagar Phulwari Patna
 2. Saurabh @ Saurabh Kumar son of Sanjay Kumar Road NO-18, Rajiv Nagar Phulwari Patna

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The State Of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Virendra Kumar Ray, Adv.

For the Opposite Party/s : Mr.Pradeep Narain Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 11-03-2024 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 Digha P.S. Case No. 914 of 2023 dated 26.11.2023 registered for the offences punishable u/ss 30(a), 32(2) (3), 36 and 41(1)(2) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 5076 litres of illicit foreign liquor was recovered from the truck which was parked in the godown.

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



implicated in this case. The petitioners have no criminal antecedent as stated in para 3 of the bail petition. The petitioners are not named in the F.I.R. The name of the petitioners have transpired on the basis of the confessional statement of the co-accused, Sonu Kumar. The petitioners have no concern with the said vehicle and the said *godown*. 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 material available on the record, 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, Patna in connection with Digha P.S. Case No. 914 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)

Gautam/-

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

