

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13132 of 2024

Arising Out of PS. Case No.-1131 Year-2023 Thana- TURKAULIYA District- East Champaran

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1. Chuman Mukhiya Son of Jhokan Mukhiya Resident of Village- Chailaha, Police Station- Banjariya, District- East Champaran
 2. Harihar Mukhiya Son of Sri Bhagwan Mukhiya Resident of Village- Chailaha, Police Station- Banjariya, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Suresh Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 04-03-2024 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The Petitioners are apprehending their arrest in connection with Turkauliya (Banjariya) P.S. Case No. 1131 of 2023 dated 03.11.2023 of the offences punishable u/s 30(a) and 41 (i) of the Bihar Prohibition and Excise Act 2018.

3. As per the prosecution case, total 60 litres of country made liquor, two gas cylinder and two copper utensils were recovered from the bank of river.

4. Learned counsel for the petitioners have submitted that the petitioners are innocent and have falsely been implicated in this case. The petitioner no. 1 has no criminal



antecedent and petitioner no. 2 has three criminal antecedents as stated in para 3 of the bail petition. The name of the petitioners was disclosed by *local watchman*. No incriminating article 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 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, East Champaran at Motihari in connection with Turkauliya (Banjariya) P.S. Case No. 1131 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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