

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15228 of 2024

Arising Out of PS. Case No.-57 Year-2023 Thana- VIJAYEPUR District- Gopalganj

1. Shri Ram Ram @ Shriniwash Ram @ Shriram Ram son of Rajendra Ram Village- Semarahi Ps- Vijayipur Dist- Gopalpur
2. Uma Ram @ Uma Ram Yadav son of late Yamuna Ram Village- Semarahi Ps- Vijayipur Dist- Gopalpur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vikash Kumar Shukla

For the Opposite Party/s : Mr.Shaheen Begum

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 connection with Vijayipur P.S. Case No. 57 of 2023, dated 06.03.2023 for the offences punishable under Sections 341, 323, 307, 332, 333, 353, 34 of the Indian Penal Code and u/s 30(a) and 45 of the Bihar Prohibition and Excise Act, 2016.

3. As per prosecution case, total 200 ml. of Banti Babli country liquor has been recovered from the possession of co-accused Suryanath Ram. The co-accused persons and the 8-10 unknown persons obstructed the police force in discharging his official duty and tried to free the apprehended co-accused



person by assaulting them with lathi and danda after surrounding their vehicles.

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 name of the petitioners was disclosed by local chowkidar. There is general and omnibus allegation against the petitioners. Nothing has been recovered from the conscious possession of the petitioners, hence 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 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 APP 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) each with two sureties of the like amount each to the satisfaction of the learned court concerned, Gopalganj in connection with Vijayipur P.S. Case No. 57 of 2023, 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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